ANNUAL REPORT 2006

Labour Relations Board

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LABOUR RELATIONS BOARD

2006
ANNUAL REPORT

Ministry of Labour and Citizens' Services
Honourable Olga Ilich, Minister

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September 14, 2007

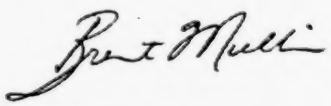
The Honourable Olga Ilich
Minister of Labour and Citizens' Services
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Honourable Minister:

RE: Labour Relations Board 2006 Annual Report

I am pleased to forward the 2006 Annual Report of the Labour Relations Board for the year ended December 31, 2006. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,
LABOUR RELATIONS BOARD



Brent Mullin
Chair

Enclosure

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CHAIR'S MESSAGE

As set out in the 2004 and 2005 Chair's Messages, the Board has been focusing on the clear direction from the Legislature in the 1993 and 2002 amendments to the Code to move labour relations in British Columbia in a positive direction.

The amendments produce both a new framework and a new approach for labour relations. The new framework contains a broader vision of labour relations. It requires that we concern ourselves with the employees, the ongoing viability of the enterprise, and the public interest, as well as the more traditional labour relations focus on the union and the employer. A key part of the new framework is that collective bargaining is to drive and achieve success in respect to all these interests.

The new approach in the Code addresses how to achieve these goals. It focuses on practical problem solving, rather than the adversarialism and confrontation of traditional labour relations. The new approach seeks positive outcomes through mediation and practically oriented, joint efforts between the parties, including continuous problem solving between rounds of collective bargaining.

This new framework and approach is intended to move us beyond the entrenched positions and battles of the past. This can be challenging, as it may take the parties, their representatives, and the Board outside of their usual practices and comfort zone. But it is worth it, as practically oriented, problem solving outcomes are preferable to litigation and the economic warfare of the past. The default position can in fact be very costly, resulting in lost businesses and jobs: *Campbell Goodell Traynor Consultants Limited,* BCLRB No. B288/2003 (Leave for Reconsideration of BCLRB No. B232/2003).

A good example of the positive, new framework and approach can be seen in the Board's extensive work with the parties in the recent collective bargaining between Construction Labour Relations Association ("CLRA") and Bargaining Council of British Columbia Building Trades Union's ("BCBCBTU"). Past bargaining between these parties has been difficult and lengthy. It has not ameliorated the continuing decline in market share of this sector of the construction industry. In short, the parties' bargaining and relationship was not producing the success focused on in the new framework and approach in the Code.

The case arose before the Board when the parties were not able to agree on a bargaining protocol in the last round of collective bargaining. Faced with that, they each brought Section 11 complaints against the other of failing to bargain in good faith. The Board seized upon that opportunity to direct the parties into better, more productive processes that ultimately produced a progressive outcome and better basis for their relationship. That included:

- Fully utilizing both the mediative and adjudicative powers of the Board under the Code. The Board's adjudicative decisions largely dealt with collective bargaining process issues, while the mediative component was directed at achieving successful collective agreement outcomes. In their adoption of the

process, logjams were broken by discrete Board decisions with the parties then returning to further negotiations. The parties came to call this "mediation/adjudication".

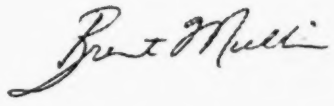
- Underlying this approach was the express recognition that the principles of Section 2 of the Code inform the Board's approach to the duty to bargain in good faith. That includes addressing the positions of the parties as to whether they are consistent with achieving a viable, competitive sector in the context of the realities of the current market: see Section 2(b) of the Code.

- While the Board assisted the parties with both adjudication and mediation, the goal was the parties' own resolution of their problems, consistent with the principles in Section 2 of the Code. This included ultimately agreeing to an ongoing joint consultative process as contemplated under Section 53 of the Code to deal with the broad array of workplace issues relating to productivity, competitiveness, the development of a skilled, educated, and flexible workforce, adapting to changes in the economy and other important workplace issues, between rounds of collective bargaining.

- Lastly, the process included interest arbitration by the Board of certain outstanding issues, particularly trade issues. Significantly, that process added the principles in Section 2 of the Code to the traditional approach to interest arbitration.

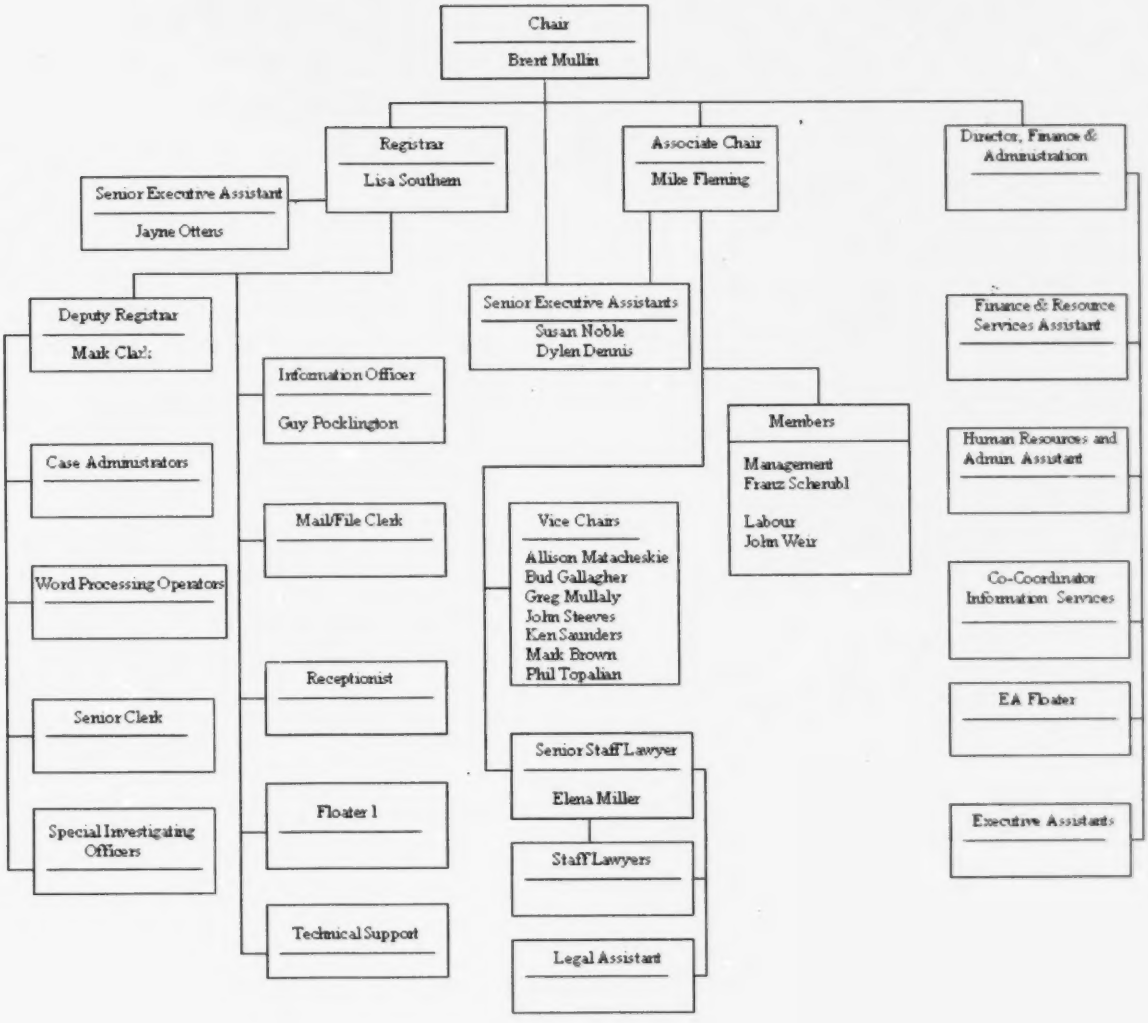
The result was successful. The parties achieved a collective agreement in less time and with less acrimony than in the previous round of bargaining. More importantly, they achieved an agreement which provided them with a basis upon which to compete in the marketplace.

This process and outcome in the CLRA/BCBCBTU bargaining is in fact consistent with innovations in other key sectors of traditionally difficult labour relations in the province. All of that is very positive work being done in labour relations in British Columbia. We look forward to continuing that positive work in 2007.



Brent Mullin
Chair

As of December 31, 2006



I. THE BOARD

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with the responsibility in labour relations matters under several other statutes.

In carrying out its mandate, the Board must at all times have regard to the manner in which it performs its duties under the Code. These are set out in Section 2(1):

2. The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that

(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,

(b) fosters the employment of workers in economically viable businesses,

(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,

(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,

(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,

(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,

(g) ensures that the public interest is protected during labour disputes, and

(h) encourages the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115(1) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. The Chair designates one of the Vice Chairs to act as Associate Chair and one to act as the Registrar. The Chair, along with the Associate Chair, establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice Chair(s), and members in accordance with Section 117(5) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chair of Adjudication and the Registrar report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides at all proceedings of the Board and on all panels of which the Chair is a member.

C. REGISTRY

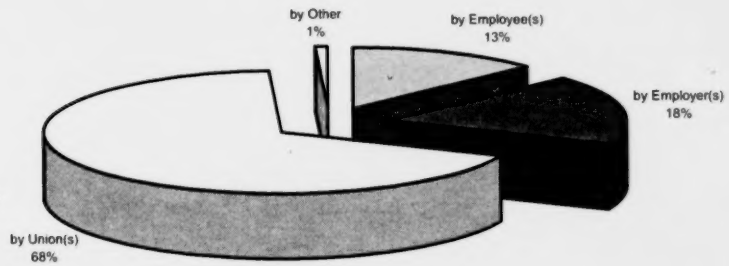
Every application received by the Board is processed through the Registrar's office. Administration and progress of each case is overseen by the Registry until the matter is finally disposed of. Four case administrators, each dealing with a geographic area of the Province, are responsible for initiation of applications and the conduct of files.

Processing of all applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

Legislated time frames, combined with established Board policies and procedures, result in approximately 53 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints require commencement of a hearing within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, Case Administrators are responsible for completing all necessary procedures before files are forwarded to Adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies.

2006 Applications and Complaints by Type of Applicant



Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their case load involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 9 of the statistical tables, approximately 60 percent of unfair labour practice complaints and Part 5 complaints referred to officers are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers of the Employment Standards Branch of the Ministry of Labour and Citizens' Services. For example, every application for certification or decertification requires a report by an Industrial Relations Officer. Such reports are public, with only names and numbers remaining confidential to the Board.

Both SIOs and Industrial Relations Officers (IROs) also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a wide variety of issues.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them.

In accordance with Section 122(3) of the Code, the Board appointed its first Information Officer, effective February 1, 1994. His responsibilities to date have encompassed two main areas: handling incoming inquiry calls, and preparing written material for the public and the labour relations community.

The Information Officer deals with between 30 and 40 calls per day from

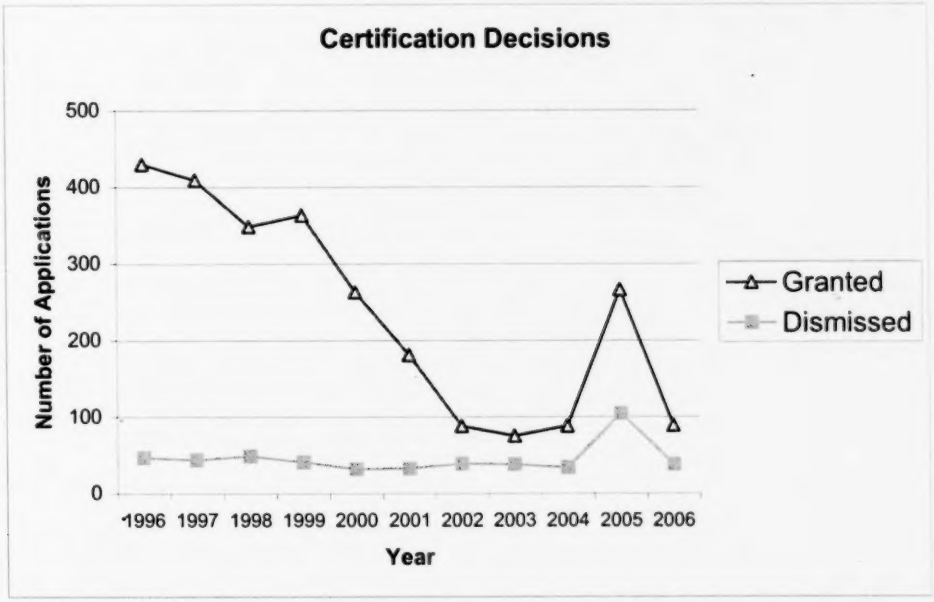
employers, unions, individual employees and media representatives.

The Board's publications include an *Employer's Guide to the Union Certification Process*. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The Guide is also available in French, Chinese and Punjabi translations. The day after the Notice and Guide are sent to employers, the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process,* has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.

Another publication prepared by the Information Officer, the Board's Practice Manual, has now been in use since April, 1995.

The Board's web site was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The web site address is www.lrb.bc.ca.



D. COLLECTIVE AGREEMENT ARBITRATION BUREAU

Effective July 5, 2002, and pursuant to the *Labour Relations Code Amendment Act, 2002*, the Collective Agreement Arbitration Bureau was brought under the administration of the Labour Relations Board. Pursuant to Section 83(1) of the Code, the Chair designated the Board's Deputy Registrar, Mark Clark, as Director of the Bureau.

The primary function of the Bureau is to appoint arbitrators where one of the parties seeks an expedited form of arbitration, where the parties seek consensual mediation/arbitration, or where there is a failure to appoint or constitute an arbitration board by one of the parties. In addition, the Bureau also appoints settlement officers to assist the parties in resolving grievances filed under collective agreements. The Labour Relations Board offers the services of its Special Investigating Officers (SIOs) and Mediators as settlement officers to assist the parties in resolving the grievances prior to an arbitrator's appointment by the Bureau.

Since July 5, 2002, applications filed with the Bureau for the appointment of arbitrators and/or settlement officers are processed through the Registry of the Labour Relations Board. The Registry's Case Administrators are generally responsible for the day-to-day administrative processing of the applications, with the Director responsible for the selection/appointment of the arbitrator in each case.

The Bureau, through its Director, must also maintain a register of arbitrators. A Joint Advisory Committee, as appointed by the Minister, must advise the Director on the training and education of arbitrators and settlement officers, research and publication of information about arbitrations, and establishment and maintenance of a register of arbitrators.

The Joint Advisory Committee comprises two representatives of unions, two representatives of employers and two representatives of arbitrators, along with the Director who is the chair of the committee.

E. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the *Labour Relations Code*. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker and essential services provisions; and applications for reconsideration of Board decisions.

On average, 977 cases per year were adjudicated over the past 6 years. A

comparison of cases assigned for adjudication and adjudicated for the past several years is set out in the accompanying table. The Adjudication Division published 312 decisions. Summaries of the key cases are found elsewhere in this Report.

A major portion of the Division's workload continues to be adjudication of expedited applications (including certifications, unfair labour practice and Part 5 applications). During 2006, expedited applications comprised about 65 percent of cases received in the Board's major adjudication areas.

As of December 31, 2006 the Board had 4 Vice Chairs and 3 Staff Lawyers. In 2006, the Board also utilized the services of several contract Vice-Chairs.

	1999	2000	2001	2002	2003*	2004	2005*	2006
Cases Assigned for Adjudication	1,603	1,365	1,258	860	890	1,141	919	851
Cases Adjudicated	1,628	1,404	1,293	957	889	936	1,006	781
Cases Outstanding at Year End	410	371	336	239	240	445	358	428

*Figures adjusted after publication of *LRB Annual Report* for noted year(s).

F. MEDIATION DIVISION (Mediators were transferred to the Ministry September 1, 2006)

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship and collective bargaining information. These and other services are provided under the direction of the Registrar.

Information about the services available from the Mediation Division can be obtained via the Board's web site (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the *Labour Relations Code* administered by the Mediation Division.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in an effort to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

The majority of mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under

Section 55. In 2006, mediators were appointed to 148 cases under Section 74 and 25 cases under Section 55. Mediators were also involved in a further 18 cases which were carried over from previous years.

Essential Services (Section 72)

The mediation of essential services in certain public sector disputes is also part of the mandate of the Mediation Division.

Conflict Management

During 2006, the Mediation Division continued with its conflict management initiatives, not only in keeping with its mandate under the Code, but also with a view to designing individualized and relevant programs. The focus of the programs places greater emphasis on the analysis of conflict and its ongoing management in the workplace.

At the joint request of employers and trade unions, the Mediation Division consults with the parties in an effort to understand the nature and role of conflict in the parties' organization. Current methods of dispute resolution are also examined in the context of the organizational culture within which they operate. The Mediation Division works with the stakeholders to design and implement conflict management processes that focus on systemic change.

Guidelines used in the design process include: stakeholder participation, the adoption of preventative methods of alternative dispute resolution including training in interest based problem solving, the use of interest based and rights based processes, promotion of dispute resolution throughout all levels of the organization. Openness and broad based participation are encouraged and emphasis is also placed on the importance of feedback and continuous self-evaluation.

Relationship by Objectives Program

One of the forums for exploring conflict and designing conflict management systems has been the Relationship by Objectives program. The program which was originally designed as a two-day exploratory retreat has been refocused to place greater emphasis on skills in effective communication and interest based problem solving.

In a preliminary assessment, Mediation staff determine if the parties are committed to make the changes needed in their relationship to foster a more positive climate in the workplace. The assessment is conducted through various forms of information gathering, including meetings, surveys, and/or focus group discussions. Following this initial assessment, a representative sampling of the stakeholders attend a two or three-day session away from the workplace. Two mediators normally facilitate the session. Participants receive skills training, identify conflicts affecting their relationship, and collectively develop strategies to address and manage the identified conflicts. These strategies take the form of written action plans with specific goals, time frames for achieving the goals and assignment of specific individuals responsible for ensuring that action plans are carried out.

Labour Management Consultation Committees

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the

cooperative resolution of workplace issues. Using some of the same conflict management techniques described above, the Mediation Division offers assistance to employers and unions in meeting this obligation. Assistance is offered for the establishment of new committees and/or improvement in the effectiveness of existing committees. These sessions are usually scheduled for half a day to a maximum of a day, depending on the needs of the parties.

G. ADMINISTRATION

Information Systems

The Board has a Compaq Alpha Server computer running a Digital UNIX operating system. The in-house applications running on the computer are written in PowerHouse and the information/data collected is stored in an Interbase database. The Board is also running Microsoft Windows NT Server 4.0 as a file and print server.

The principal computer applications contained on the in-house computers run in the following areas: case management, word processing, office automation and end user computing, statistical collection and distribution, library management and computer aided research.

Finance and Administration

The Finance and Administration Department is responsible for human resource matters including recruitment, payroll and benefits administration, financial management including budget, accounts payable/accounts receivable and is also responsible for all security and facilities matters.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, word processors, executive assistants, and administrative support personnel.

II. BOARD MEMBERS AND MEDIATORS

As of December 31, 2006 the Board consisted of the following members:

EXECUTIVE

BRENT MULLIN, *Chair*

Brent Mullin's education includes a B.A. from the University of Victoria, an M.A. from Queen's University at Kingston, Ontario, and an LL.B. from the University of British Columbia. From 1983 to 1992 he practised labour relations, employment and human rights law in Vancouver, British Columbia at Russell & DuMoulin (now Fasken Martineau DuMoulin). From 1992 to 1998 he served as a Vice-Chair at the British Columbia Labour Relations Board, then returned to the practice of labour law at Fasken Martineau DuMoulin. In January 2002 he was appointed Chair of the British Columbia Labour Relations Board and in August 2002, Chair of the Employment Standards Tribunal.

MICHAEL FLEMING, *Associate Chair*

Michael Fleming obtained a B.A. from Simon Fraser University in 1978 and worked with the Ministry of Human Resources as a social worker until 1983. He then worked for the Canadian Farmworkers Union appearing before a number of tribunals and courts on behalf of the members. He received an LL.B. in 1988 from the University of British Columbia and then articled and practised law with the firm of Rush, Crane & Guenther until 1990. From 1990 to his appointment to the Labour Relations Board as Vice Chair in 1997, he was employed by the BCGEU holding several positions and appearing before various tribunals and arbitrators on behalf of the Union and its members. He was appointed as the Associate Chair in the fall of 2002.

LISA SOUTHERN, *Vice Chair and Registrar*

Southern received her law degree from Osgoode Hall Law School at York University in 1996. She was called to the British Columbia Bar Association in 1997, specializing in labour, employment and human rights issues. As a labour relations advisor at Forest Industrial Relations Inc., Southern provided employment, labour relations and human rights advice for the forest industry umbrella organization, established to administer and bargain the collective agreement governing member companies and 14,000 employees certified with IWA-Canada.

VICE-CHAIRS

ALLISON MATACHESKIE, *Vice Chair*

Allison Matacheskie received her LL.B from the University of Ottawa in 1989. She articled in British Columbia with the firm of Stevenson, Norman, which practiced labour law exclusively representing unions. She was called to the B.C. Bar in 1990 and remained with Stevenson, Norman until 1992 when she left the area of labour law to practice criminal law as crown counsel. After two years of experience prosecuting at the provincial court level, she returned to labour law and joined the firm of Victory Square Law Office, a firm which exclusively represents unions. She practiced there for more than five years before she resigned for personal family reasons. She returned to practice labour law in 2001 and joined the firm of Granville and Pender Labour Law Office. In October of 2002, she accepted a temporary contract with the Ministry of Attorney General as a special assignment prosecutor. She was appointed as a Vice Chair in January 2004.

GREG MULLALY, *Vice Chair*

Greg Mullaly took degrees in philosophy at Dalhousie University (B.A. (Hons.), 1975) and the University of Oxford (B. Phil., 1978) before returning to Dalhousie University to study law. He received an LL.B. in 1981 and then practiced labour law for nineteen years, most recently at Victory Square Law Office. Mr. Mullaly was appointed to the Labour Relations Board in June, 2000.

KEN SAUNDERS, *Vice Chair*

Ken Saunders obtained a Bachelor of Arts degree from Simon Fraser University in 1987 and a Bachelor of Law degree from the University of British Columbia in 1990. Following graduation, he acted as Assistant Director of the Hospitality Industrial Relations Employers' Association where he was responsible for grievance arbitration and Labour Relations Board matters. In 1996 he joined the Community Social Services Employers' Association until his appointment as a Vice Chair in October, 2000. At CSSEA he headed the Dispute Resolution and Research Services Department and acted on behalf of member agencies in Labour Relations Board, Employment Standards, Human Rights and collective agreement arbitration proceedings. On October 11, 2000 Mr. Saunders was appointed a Vice Chair of the Labour Relations Board.

PHILIP TOPALIAN, *Vice Chair*

Topalian received a law degree from the University of British Columbia in 1977 and practiced law from 1978 to 1980. Topalian was appointed to the position of Labour Relations Officer in the Provincial Government in 1989, holding the position of Senior Labour Relations Officer with the Public Service Association since 1995. Topalian has extensive experience in negotiations as well as appearing as counsel before a variety of employment related tribunals.

- In 2006, the Board also utilized the services of several contract Vice-Chairs.

MARK J. BROWN, *Vice Chair*

Mark Brown was appointed to the Board as Vice Chair commencing February 1, 1996. Mark also served as a Board Mediator commencing in March of 2001. In September of 2002 as part of the Board's restructuring initiative, Mark was appointed Manager Mediation Services. In September of 2003 Mark was appointed Registrar as well. In June of 2006 Mark resigned from the Board; however, he continued to work part-time under contract.

G. BUD GALLAGHER, *Vice Chair*

Bud Gallagher has practiced law for over 20 years. His areas of expertise are administrative law, financial administration, collective bargaining and strategic and operations planning. He has served as a labour and employment lawyer on behalf of employers, and he was the Business Ambassador for Canada for Puget Sound Energy in Bellevue, Washington. Mr. Gallagher was also the Chief Operating Officer for Hydro West Group and in the public sector; he was the Restructuring Coordinator for the Employment Tribunals for the Ministry of Skills, Development and Labour. He was Chair of the Workers' Compensation Review Board, the Industrial Relations Council, in the Adjudication Division and he served as Vice-Chair of the Labour Relations Board for 3 years. He is a retired Member of both the Law Society of BC and the Canadian Bar Association. Mr. Gallagher has lectured for the Faculty of Commerce, UBC and holds a L.LB Cum Laude from the University of Ottawa.

JOHN STEEVES, *Vice Chair*

John Steeves has been an Arbitrator since 2003 and has been appointed to a variety of disputes in the private and public sector. He has been named arbitrator in various collective agreements in the federal and provincial sectors. Mr. Steeves is a past Vice-President and Director of the Canadian Council of Administrative Tribunals and is a past Chair and Program Coordinator of the Circle of Chairs in B.C. and member of the Advisory Committee for the Administrative Justice Project, Ministry of the Attorney General of BC. From 1986 to 2000 Mr. Steeves practiced labour law, disability law and law related to broader health issues. He is currently part-time adjudicator/vice-chair with the Public Service Staff Relations Board (Canada, 2004), the Yukon Public Service Staff Relations Board (2004), the Yukon Teachers' Staff Relations Board (2004); the Workers' Compensation Appeal Tribunal (B.C. 2005) Public Representative, Discipline Committee, Canadian Society of Immigration Consultants (2006) and B.C. Labour Relations Board (2006). Mr. Steeves was previously Chief Appeal Commissioner, Workers' Compensation Board of B.C. (2000 and 2002).

BOARD MEMBERS

FRANZ SCHERUBL, *Employer Representative*

Franz Scherubl has worked in the labour relations field for close to 20 years. He is currently responsible for labour relations, human resources corporate governance and trade training at BC Gas Utility. He has a Bachelor of Commerce and Business Administration degree from the University of British Columbia and has also worked in mining, insurance and retail services.

JOHN WEIR, *Employee Representative*

John Weir is the Assistant to the Secretary-Treasurer and Director of Organizing for the B.C. Federation of Labour. From 1972 to 1980, he was a member of Local 480 of the United Steelworkers of America in Trail, B.C., serving as Chief Shop Steward and Safety Committee Vice-Chair. He represented Trail and Kimberley Steelworkers in several rounds of contract negotiations and was Secretary of the Cominco Chain Bargaining Council in Western Canada. As Financial Secretary of Local 480 from 1980 to 1986, he was responsible for Workers' Compensation advocacy, rehabilitation, benefits and pensions. During this period, he served as labour member of the Unemployment Insurance Board of Referees. In 1986, John was appointed to the Workers' Compensation Review Board. He joined the B.C Federation of Labour in 1987 as a Staff Director and has worked on a range of labour relations issues including human rights, occupational health and safety and Workers' Compensation. In 1991, John Weir was seconded to the Canadian Labour Congress to coordinate projects in South Africa and the Middle East, returning to the Federation a year later.

- Until July 31, 2006, the Board's members consisted of:

DON ADAMS, *Employer Representative*

Adams has a master's degree in industrial and labour relations from the University of Oregon. He has written various publications on human resource issues and organizational change. Adams is the president of D. Adams Management Services Ltd., consulting primarily to smaller-to-medium size businesses and not-for-profit organizations concerning labour relations, human resources, organization development and performance management. He is a member of the Vancouver Board of Trade and Coalition of B.C. Businesses.

PAULA BODDIE, *Employer Representative*

Paula Boddie has worked in the human resources/labour relations field for over 15 years. She has held senior management positions in the federal and provincial sectors, most recently as Vice President of Human Resources at B.C. Transit. Ms. Boddie held a similar position at the Vancouver Port Corporation and at the Vancouver Stock Exchange. Ms. Boddie has extensive experience in labour relations, human resources, and with employment equity and human rights

matters and legislation. Currently, Ms. Boddie is a practising consultant in the broad human resources field.

DENISE BUCHANAN, *Employer Representative*

Denise Buchanan presently leads the Human Resources department of White Spot Limited as Director of Human Resources. She is involved in labour and employee relations, training, health and safety, and compensation issues for over 3000 employees. Under her leadership, White Spot Limited was awarded the Quality of Council of BC's Award of Distinction of People Practices in 1999. Her experience includes working with union and non-union, corporate and franchisee environments. She has been involved in many rounds of labour negotiations both as chief spokesperson and as a committee member, and has participated in grievances, hearings and arbitrations on a wide spectrum of issues. Her prior experience includes over 10 years in Operations and Multi-Unit Management, providing her with a solid business management background to complement her human resources expertise.

PAULA BUTLER, *Employer Representative*

Paula Butler is presently working as a sole practitioner. Her practice includes mediation/arbitration services, and harassment and other investigation services to both public and private sector clients. She also provides legal advice to employers on a variety of labour and employment law issues, and is the Manager of Labour Relations at MDS Metro Laboratory Services. Prior to that, Paula worked for the Community Society Services Employers' Association of B.C. as the Acting Director/Team Coordinator of Human Resources/Labour Relations Services. Paula is a graduate of the University of Victoria with a Bachelor of Law degree.

GEOFFREY HOWES, *Employer Representative*

Geoffrey Howes has 35 years of experience in the restaurant and hospitality industry. He has worked in virtually all aspects of the industry, from waiter to chef to owner. As Director of Operations for Toseki Entertainment Ltd. he is responsible for the day-to-day operation of three fine dining restaurants - Salmon House on the Hill, Aqua Riva and Horizons. He also has considerable experience in labour policy issues, as an executive member of the Coalition of B.C. Businesses and as the Vice-President of Government Affairs for the B.C. Restaurant & Food Services Association.

TAJ KASSAM, *Employer Representative*

Kassam has a degree in hotel management from the University of Strathclyde, Scotland. He is currently the president and chief operating officer of Sandman Hotels, Inns and Suites of Vancouver. He is a director of the British Columbia and Yukon Hotel Association, member of the Hotel Catering and Institutional Management Association and an advisory committee member of the Hotel and Restaurant Management Program at Douglas College.

PETER KULYK, *Employer Representative*

A director of the B.C. Auto Dealers' Association, Kulyk is the president and general manager of Ensign Chrysler in Victoria. Kulyk has nearly 30 years in the automobile industry, working in all areas of the business, owning and managing dealerships for the last 13 years in B.C. and previously in Alberta, Saskatchewan and Manitoba. He has been involved in collective agreements with the machinists union, gaining experience in negotiating and resolving differences.

MARK LEFFLER, *Employer Representative*

Mark Leffler is Manager, Human Resources and Labour Relations for the Greater Vancouver Regional District. In that capacity he is responsible for collective bargaining on behalf of 16 municipalities and the Regional District in a voluntary bargaining association. His department negotiates some 60 collective agreements covering more than 13,000 employees, including inside/outside employees, police, firefighters, nurses, museum and public library staff. The department also provides job evaluation, workers' compensation and employment equity services throughout the Region. Mr. Leffler is a graduate of the University of British Columbia and, prior to joining the GVRD in early 1986, held a variety of labour relations and human resource management positions with Ontario Hydro, Liquid Carbonic Canada Ltd. and B.C. Hydro.

KATHY SANDERSON, *Employer Representative*

Kathy Sanderson previously served the small business community of B.C. as the Chair of the Coalition of B.C. Businesses and as Director of Provincial Affairs for the Canadian Federation of Independent Business. Currently, Ms. Sanderson works as a consultant and in addition to serving on the Labour Relations Board also sits as a member of the B.C. Labour Force Development Board.

JOHN BOWMAN, *Employee Representative*

Bowman handles representation for the National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW Canada) before the B.C. and Alberta labour relations boards, as well as the Canadian Industrial Relations Board. He has been involved in organizing more than 10,000 members into the CAW and before that, the Canadian Association of Industrial Mechanical and Allied Workers Union.

NEIL BRADBURY, *Employee Representative*

Neil Bradbury is a National Representative for the Canadian Union of Public Employees. Mr. Bradbury has been a member of the Board of Directors of the Medical Services Association since 1985, serving as Vice Chairman since 1989 as well as Chairman in 1993 and 1994. He is a past member of the Workers' Compensation Boards of Review and has held positions on the executives of CUPE Local 498, CUPE's Fraser Valley District Council, and the CUPE B.C. Executive Board. He has instructed courses for the Canadian Labour Congress, the B.C. Federation of Labour and CUPE's six-level program. He regularly represents employees and locals before tribunals.

DIANE MACDONALD, *Employee Representative*

MacDonald received her Bachelor of Arts degree from Simon Fraser University in 1986, a law degree from Dalhousie in 1991, and her Ph.D. from Northeastern University in 1998. She is a labour lawyer for the B.C. Teachers' Federation. MacDonald is responsible for arbitrations, mediations, and Labour Relations Board hearings. She has been involved in submissions to the Human Rights Commission and provided policy advice to provincial and federal task forces on labour law reform.

GAIL MARTIN, *Employee Representative*

Gail Martin has worked for B.C. Telephone since 1967. For most of that time she has been involved with the Telecommunications Workers' Union as a Local Executive member. She has served on several joint committees with company representatives including contracting out and technological change, work jurisdiction and job sharing. Since 1995 she has worked full-time for the TWU. She is also active in her community. In 1990 she was a candidate for Councillor in Delta, currently serves on the Delta Police Board, and is an executive member of the Canadian Association of Police Boards. She is married with two adult children.

NEIL ROOS, *Employee Representative*

Roos has been involved in the labour relations community in B.C. for almost 35 years. In that time, he has led the Christian Labour Association of Canada from a small union presence to that of some 8,000 members. Roos has represented CLAC interests at the Labour Relations Board and is familiar with jurisprudence as well as board protocol. As well, he has taken courses in labour law and labour relations via the Continuing Legal Education Society of B.C.

MAUREEN SHAW, *Employee Representative*

Maureen Shaw has been President of the College Institute Educators' Association of B.C. (CIEA) for 3 years and Secretary Treasurer for the previous 3. She has also been a member of the Executive Council of the B.C. Federation of Labour and the BCFL Education Committee. An English instructor at Kwantlen University-College, Maureen has also been active at the local level, serving as Chief Steward, Chief Bargainer and Local President.

COLIN SNELL, *Employee Representative*

Colin Snell is the former President and Secretary Treasurer of the British Columbia Provincial Council of Carpenters. Prior to his election in 1985 to the Provincial Council, he was Business Agent of Carpenters' Vancouver Local Union 452 for 15 years. Mr. Snell has held Executive Council positions with the B.C. Federation of Labour, the B.C. and Yukon Territory Building and Construction Trades Council and the Vancouver and District Labour Council.

DAVID VIPOND, *Employee Representative*

David Vipond has been employed with the BCGEU for 21 years. He has worked in the Kootenays, Okanagan and Lower Mainland Area Offices as a Regional Coordinator. He is currently Chief Negotiator for the Master Agreement with the Province of British Columbia. He is also responsible for membership grievance appeals and is a Trustee for the Public Service Pension Plan. He was a National Industrial Officer in Australia with the Community and Public Sector Union where he was responsible for the federal Attorney General's Department, including all related agencies, boards, commissions and courts. He has previously served as Chair of the Board for Surrey Memorial Hospital and as a member of the Business Task Force.

MEDIATORS

Up to September 1, 2006, the Board's Mediation Division consisted of the following Mediators:

DEBBIE CAMERON, *Mediator*

Debbie Cameron graduated from the Cariboo College Nursing program in 1976 and worked as a registered nurse for the next four years. In 1981 she was employed by the B.C. Nurses' Union, initially as a Labour Relations Officer, then as Negotiations Officer and in 1992 became the Co-ordinator of Hospitals and Organizing. As Hospitals Co-ordinator she was responsible for negotiations and contract administration of all hospital sector collective agreements, covering more than 17,000 employees. Debbie joined the Board as a mediator in 1994. Debbie has a Certificate in Conflict Resolution from the Justice Institute of British Columbia, a Certificate in Intercultural Studies from the University of British Columbia and a Masters degree in Conflict Analysis and Management from Royal Roads University.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Mr. McArthur joined B.C. Rail in 1986 where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

STEPHEN RINFRET, *Mediator*

Stephen Rinfret has worked in both labour relations and human resources in B.C. for over 20 years. Immediately prior to joining the Board, he was Director of Labour Relations Services for the Continuing Care Employee Relations Association (now HEABC). During this time, Mr. Rinfret also taught an undergraduate course in collective bargaining at Simon Fraser University, and a similar course at the British Columbia Institute of Technology. He holds a Bachelor of Science degree from the University of Montreal (Loyola College) and a Masters degree in Business Administration from Simon Fraser University. Stephen has been with the Board as a mediator since 1994.

III. HIGHLIGHTS OF BOARD DECISIONS

In 2006 the Adjudication Division published 312 numbered decisions. The following are summaries of some of the more noteworthy decisions issued during the year. These summaries are provided for interest only, and they do not constitute legal or authoritative interpretations of the decisions in question. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca), or can be obtained from Canada Law Book (Official Publisher) (Toll free phone number: 1-800-263-2037), the Vancouver Public Library, or the Vancouver Court House Library. Electronic access is available through Quicklaw (Phone Number: 604 684-1462).

***Biomedical Engineering Technologists*, BCLRB No. B2/2006 (Leave for Reconsideration of BCLRB No. B126/2005) (upheld on judicial review: 2006 BCSC 1334)** – The Board has jurisdiction to decide not only in which health sector bargaining unit the BMETs should be included, but also which union should represent them in that unit.

***Universal Specialties Inc.*, BCLRB No. B15/2006 (Leave for Reconsideration denied: BCLRB No. B54/2006)** – The 10-month bar on decertification following a certification applies even where the new bargaining agent is not a "stranger" to the relationship.

***Fording Coal Ltd.*, BCLRB No. B33/2006** – The Union applied under Section 99 for review of a letter decision of an arbitrator. The Union argued the only remedy for the breach of natural justice was to remit the matter to a new arbitrator. The Board held that the question was whether, in the circumstances of the case, it was reasonable to assume that the arbitrator can fairly revisit the Union's application and continue to hear the matter that was remitted to him. The Board decided remittal was appropriate in the circumstances.

***City of Cranbrook*, BCLRB No. B34/2006** – An employer must comply with a request for an up-to-date list of all the bargaining unit members' names, addresses and home telephone numbers by the union certified to represent a bargaining unit. Privacy legislation does not bar disclosure of this information.

***Trevor J. Lowe Holdings Ltd.*, BCLRB No. B50/2006 (Leave for Reconsideration of BCLRB No. B212/2005)** – The following findings of fact and mixed fact and law justified the Board's decision to impose a remedial certification in this case: the Employer committed a serious unfair labour practice in coercing Union organizers by way of a threat to their employment security; the effect of the contravention was to cause a continuing chill on the organizers' efforts which lasted up to the date of the vote; a majority of employees had signed cards and therefore the Union had a core group of support sufficient for collective bargaining; the result of the first vote was 17-17; and but for that contravention, the Union would have obtained majority support at the first vote. In circumstances where the Board finds a union would have obtained majority support for certification but for the unfair labour practice committed by the employer, remedial certification is clearly an appropriate remedy.

***British Columbia Public School Employers Assn.*, BCLRB No. B53/2006 (Leave for Reconsideration of BCLRB No. B229/2005)** – BCTF and Mission Teachers' Union applied for reconsideration of the Board's decision to declare BCTF's In-Dispute Declaration void and of no effect. The reconsideration panel concluded the Board's declaration and the accompanying order to communicate it did not

infringe the right to freedom of expression in Section 2(b) of the *Charter*. If the Board's declaration and the order to communicate it did infringe Section 2(b), the infringement was justified as a reasonable limit in a free and democratic society under Section 1. The purpose of the Board's declaration and order to communicate it was primarily to ensure in-dispute declarations are used in a manner consistent with the intent and purpose of Part 5 of the Code; the Board Declaration and order to communicate it are rationally connected to that purpose; they impair the freedom of expression minimally to achieve that purpose; and they are not disproportionate to any such infringement.

***Kristy McKinstry*, BCLRB No. B59/2006** – The Board dismissed the Union's preliminary objection that McKinstry's complaint under Section 12 was premature. The Board found the Union's refusal to provide McKinstry with the information she requested effectively frustrated her right to pursue the internal appeal process. Without access to the information requested by McKinstry, there is a good reason to believe the internal appeal process could not provide an appropriate remedy.

***Jetes Lumber Co. Ltd.*, BCLRB No. B67/2006** – The Board found that persons who own trucks but who do not regularly drive them were not dependent contractors within the law and policy of the Code.

***Westfair Foods Ltd.*, BCLRB No. B88/2006 (Leave for Reconsideration denied: BCLRB No. B133/2006)** – The Union applied under Section 65(2) of the Code for a declaration that Westfair, Loblaws, and Kelly Douglas were allies of the Franchisee in respect of a strike that was taking place at a SuperValu/Extra Foods grocery store. The Board found that Section 65 imposes an obligation to assess to what extent, if any, operations of the common employer (like a single employer) that are alleged to be assisting the struck operation are separate and distinct. A common employer may not utilize separate and distinct operations to assist a struck operation to resist a strike without being found to be an ally.

***Construction Labour Relations Assn. of British Columbia*, BCLRB No. B90/2006** – CLRA applied to have the Board determine whether items in collective bargaining had been resolved and to have the Board determine a process by which the unresolved trade issues would be addressed. The Bargaining Council challenged the Board's jurisdiction to do so. The panel found the Board has the necessary jurisdiction under Sections 133(1)(f) and 134 to make decisions to facilitate the resolution of collective bargaining between the parties and, if necessary, to impose a process by which bargaining will continue and be concluded. That jurisdiction includes the issue of how the Boilermakers' trade issues are to be resolved or concluded. The Board decided under all the circumstances, the appropriate way to bring the necessary conclusion to bargaining is by the Boilermakers' trade issues being resolved by arbitration.

***Hayes Forest Services Ltd.*, BCLRB No. B99/2006 (Leave for Reconsideration denied: BCLRB No. B250/2006)** – The Board dismissed an application under Section 99 for review of an arbitration award which found that a successor employer could be bound by an estoppel applicable to the predecessor employer. The Board concluded that the language of Section 35(3) is not limited to "proceedings under this Code" or obligations arising from a collective agreement. A variety of unwritten legal obligations may arise from the interpretation application or operation of the agreement. The Board is given broad scope to determine "what rights, privileges and duties have been acquired or are retained".

***University of British Columbia*, BCLRB No. B100/2006** – The Union applied under Section 99 for review of an arbitration award which found the Union was not entitled to receive copies of documentation relating to a job posting by virtue of Code provisions without first filing a grievance and having the arbitrator order disclosure. The panel determined the

jurisdiction for review of this award lies with the Board as the question to be answered was with regard to the interpretation of the collective agreement and the applicability of the provisions of the Code. It is only after the collective agreement is interpreted by the arbitrator and the principles of the Code applied that the application and implication of FOIPPA must be considered. In this case, the Union did not show the arbitrator that the Employer's refusal to provide the information interfered with the administration of the Union and the Union was not without access to the information. The Union's application was dismissed.

***Wells Consultants Inc.*, BCLRB No. B101/2006 (Leave for Reconsideration denied: BCLRB No. B204/2006)** – The Labourers applied under Sections 133, 136, 139, 140 and 143 to have the Board adjudicate a work jurisdictional grievance. The Board dismissed the application concluding that absent a valid reason for not seeking to include the Jurisdictional Assignment Plan in the collective agreement during collective bargaining, the Board will not ordinarily be disposed to assist a union that finds itself unable to have a work jurisdiction claim adjudicated during the life of a collective agreement. In this case the Labourers offered no explanation for the fact that the collective agreement did not include the JAP and the Board found it would not be appropriate to exercise its discretion to remedy their inability to have their work jurisdiction claim adjudicated.

***Nanaimo Seniors Village Partnership, (Nanaimo Seniors Village Multi-Level Care Facility)*, (BCLRB No. B115/2006 (Leave for Reconsideration of BCLRB No. B271/2005; upheld on judicial review: 2006 BCSC 1879)** – The Board denied the Union's application for reconsideration of a decision not to grant remedial certification. The Board held that in certain circumstances, remedial certification may be granted even where a union does not meet certain statutory requirements for becoming certified, such as demonstrating the requisite level of support to file an application for certification. However, the reason the union is unable to meet the statutory requirements must be related or connected to the unfair labour practices. In this case a time bar has arisen following the cancellation of a certification. The original panel found there was no connection between the time bar and the unfair labour practices. The Board held that as the time bar was not related or connected to the unfair labour practices, it was open to the original panel to find that it was not appropriate to abridge the time bar in order to grant remedial certification.

***Spruce Capital Foods Ltd.*, BCLRB No. B118/2006** – The Employer applied for a last offer vote. The Union filed a complaint under Section 11 objecting to proceeding with the vote asserting that no bargaining about the parties' packages had taken place. The Board concluded the parties may apply for a Section 78 vote prior to actively taking a strike or lockout vote. There is potential for a strike or lockout when the parties have reached a legitimate impasse in collective bargaining. In order to reach a legitimate impasse the parties must have engaged in collective bargaining as contemplated under Section 11. In this case, while there had been bargaining with respect to a separate certification which may or may not have impacted negotiations, obligations under Section 11 cannot be short-circuited. The Board found the parties had not met the principles in Section 11 and the application was dismissed.

***British Columbia Teachers' Federation*, BCLRB No. B136/2006** – BCTF complained that BCPSEA refused to bargain certain BCTF bargaining proposals on the basis that they were illegal. The Board held the duty to bargain in good faith is a "single, global obligation" to negotiate an entire collective agreement, not a duty that attaches to each item placed on the bargaining table. A party is entitled to refuse to negotiate a specific proposal or proposals put forward by the other party, unless the refusal shows that the first party is negotiating without a *bona fide*

intention of reaching a collective agreement. The Board found BCPSEA was entitled to stick firmly to its position that it views the proposed language as legally impermissible under the current legislative scheme and that it refuses to agree to that type of language in any event. The application was dismissed.

***Urban Native Education Society*, BCLRB No. B137/2006** – The Board dismissed the Employer's jurisdictional objection to the Union's application for certification. The Board found that while the Employer is a post-secondary institution run by and for Aboriginal peoples, in a manner consistent with Aboriginal culture and educational methodologies, it is connected to the exercise of federal funding for the programming it provides. It otherwise occupies a specialized place in, and has connections to, the provincial post-secondary educational system. Accordingly, the Employer's labour relations matters fall within provincial jurisdiction. In order for an entity which is otherwise provincially related to be taken out of provincial jurisdiction over labour relations because of the "Indian" nature of its operations, it is necessary that "Indian status" or "rights so closely connected with Indian status that they should be regarded as necessary incidents of status" be at stake.

***Orca Bay Hockey Ltd. Partnership*, BCLRB No. B138/2006** – The BC-NHLPA applied to be certified as the exclusive bargaining agent for employees of the Employer described as hockey players employed to play in the National Hockey League. The Employers objected to the certification application arguing that the bargaining unit was not appropriate, and that only a league-wide collective bargaining relationship would be appropriate for collective bargaining. The Employer also argued that the BC-NHLPA did not qualify as a trade union under the Code. The Board dismissed the Employer's objections finding that the BC-NHLPA is a trade union under the Code and the Canuck Players constitute an appropriate bargaining unit.

***Wal-Mart Canada Corp.*, BCLRB No. B153/2006 (Leave for Reconsideration of BCLRB No. B5/2006)** – The Board found that the inference and conclusions drawn from the original panel's findings of fact were not consistent with the law and policy in *IML* and the facts did not justify reaching a conclusion that it would be appropriate to cut across a classification of employees. Further, the Board held that the original panel's conclusion that the traditionally difficult-to-organize doctrine was applicable and could not stand. As such, the Original Decision was set aside, a decision that the unit applied for was inappropriate was substituted, and the certification was cancelled.

***Susan Barclay*, BCLRB No. B154/2006 (Leave for Reconsideration of BCLRB No. B7/2006)** – The Employer applied for reconsideration of the Section 99 decision which found that Barclay was denied a fair hearing by the Claims Review Committee. The Board found that one of the fair hearing issues rested on the disagreement in respect of whether the CRC panel applied the proper interpretation of the requirements for establishing "total disability" under the Plan and the parties' collective agreement. The Board found the resolution of the disagreement regarding what is required in order to establish "total disability" under the Plan and the collective agreement is not within the Board's jurisdiction, but rather must be resolved by the parties under the collective agreement. If the Union and the Employer cannot resolve that issue between them, it needs to be determined by an arbitrator. It is not the role of the Board to make a determination about the meaning of "total disability" under Section 99 of the Code.

***Juraj Pjecha*, BCLRB No. B158/2006 (Leave for Reconsideration of BCLRB No. B73/2006)** – Pjecha applied for reconsideration of the decision to dismiss his Section 12 complaint. He argued the original panel breached principles of natural justice and procedural fairness by making findings with respect to critical matters in dispute without first holding an evidentiary hearing to resolve

the dispute. The Board dismissed the application for reconsideration. A panel is only required to hold an evidentiary hearing where a matter in dispute is central or critical to the issues which must be decided. The principles of natural justice or procedural fairness did not require the original panel to hold a hearing to resolve the dispute over the scope or manner of operation of the disputed collective agreement provision.

***Tom Hollis*, BCLRB No. B162/2006 (Leave for Reconsideration of BCLRB No. B321/2005)** – The Union applied for reconsideration of a decision that found that the Union breached Section 12 in its representation of Hollis and ordered the matter to proceed to arbitration. The Union argued the original panel did not take into account all of the Union's conduct, which included the advancement of another employee's grievance through a mediation-arbitration process under Section 105 of the Code which resulted in a mediated settlement. The Board accepted the Union's argument and further held that as a matter of Board policy, the Board generally will not order a matter to proceed to arbitration after it has already been resolved through the Section 105 mediation-arbitration process unless the mediation-arbitration process was flawed. To do so would be inconsistent with encouraging parties to reach resolution of their issues through mediation or the Section 105 process. The application for reconsideration was allowed and the original decision was set aside.

***Simpe 'Q' Care Inc.*, BCLRB No. B171/2006** – The Board found a multi-site certification to be appropriate in this case as there was no evidence that the Employer would be required to change its business operations to accommodate a single bargaining unit; the Employer has a centralized business structure with separate on-site managers for Windermere and Inglewood; the Employer has separate service contracts at each site but provides the same type of services under its own model of care; while the two facilities are separately owned, they are both private, seniors' facilities offering a similar range of care to residents; the employees share the same skills and working conditions; and the type of differences that exist between the two sites, for instance, the level of funds available for wages and benefits, are the sort of issues that could be addressed in collective bargaining. Overall, the evidence did not lead to a conclusion that a single bargaining unit would undermine efficient and stable collective bargaining.

***Greater Vancouver Regional District*, BCLRB No. B173/2006** – The Union applied under Section 139 for a determination that certain supervisor (SMSS) positions were within the scope of its bargaining unit. The Employer raised a preliminary objection that the Union had acquiesced to the exclusion of these supervisors. The Board held the Union was aware of the nature of the work performed by the SMSS positions and that they were excluded from the bargaining unit but it did not take steps to include them in the bargaining unit within a reasonable period of time. Therefore, the Board deemed the Union to have tacitly agreed to exclude the individuals in the SMSS positions from the bargaining unit. Accordingly, the positions could only be included in the bargaining unit through the agreement of the parties or an application under Section 142 for a variance of the certification.

***Seli Canada Ltd. and SLCP-Seli Joint Venture*, BCLRB No. B177/2006 (Leave for Reconsideration denied: BCLRB No. B201/2006)** – The Union applied, *inter alia*, under Sections 11 and 47 for a declaration the Employer violated the Code by setting preconditions to collective bargaining. The Employer applied under Section 11 asserting that the Union's conduct (it alleged the Union made false public statements about the employee rates of pay before and after the date of the certification, filed a Section 38 application and an unfair labour practice complaint) made it impossible for constructive collective bargaining to occur. The Board found while it would have been more prudent of the Union to raise the issues with the

Employer at collective bargaining prior to filing applications with the Board, the Employer cannot refuse to meet to bargain collectively based on its view of the Union's applications or set preconditions to the commencement of collective bargaining. The Board found the Employer violated Sections 11 and 47.

***British Columbia Public School Employers' Association*, BCLRB No. B185/2006 (Leave for Reconsideration of BCLRB No. B295/2005)** – BCTF applied under Section 141 for reconsideration of the reasons for an interim order that restricted BCTF from declaring or authorizing a strike, ordered members of the BCTF to refrain from participating in or continuing a strike and ordered members to immediately resume their job duties. Members of BCTF were also ordered to refrain from picketing at public schools in B.C. The application challenged the validity of the Interim Order, including challenges based on alleged denials of natural justice. The Board noted that even where the test for reconsideration is satisfied, the Board retains discretion to deny leave based on other relevant factors, including the practical utility of the appeal and the conduct of the party seeking leave. The Board noted the underlying labour dispute and adversarial context had disappeared and there was no live issue of practical significance between the parties. The Board also concluded the complaints regarding natural justice and procedural fairness were fact specific and were not of a recurring nature. In addition, the Board found in light of the BCTF's improper and illegal conduct, it was just and equitable to deny the BCTF leave under Section 141 of the Code.

***Atco Lumber Ltd.*, BCLRB No. B190/2006** – IFLRA applied under Section 99 for review of an arbitration award. IFLRA argued the arbitrator exceeded his jurisdiction by interpreting, rather than applying, the Master Agreement. IFLRA submitted the award was binding on it and it was denied a fair hearing because it was not made a party to the proceeding and thus did not participate and was denied the opportunity to use the dispute resolution process for interpreting the agreement. The Board found that "a party to the arbitration" within the meaning of a Section 99(1)(b) must be construed to include a person that would have been a party to the arbitration but for an alleged denial of a fair hearing. Further, the Board found that the IFLRA was not denied a fair hearing as the award did not have "precedent value" for IFLRA or its members and the interests of IFLRA or its members were not adversely affected by the fact that it was denied the opportunity to use the dispute resolution process specified in the Master Agreement for interpreting the Agreement.

***Gateway Casinos Limited Partnership*, BCLRB No. B195/2006** – The Employer complained that the Union had organized in contravention of Section 7. Union organizers stood in a publicly accessible area of the Employer's parkade and communicated with employees while they walked to and from work in an attempt to persuade them to join the Union. The Board found the application of Section 7(1) does not turn on whether the organizer is an employee nor does it entitle non-employee organizers to be on an employer's property without its consent. The Board concluded that "working hours" does not include the time employees go to and from work. As the Employer did not show that the Union organizers attempted, at the Employer's place of employment during working hours, to persuade employees to join the Union, a contravention of Section 7(1) was not established and the Employer's complaint was dismissed.

***West Fraser Mills Ltd. (100 Mile Lumber Division)*, BCLRB No. B199/2006 (Leave for Reconsideration denied: BCLRB No. B311/2006)** – The Employer applied under Section 99 for review of an arbitration award which found the Employer was estopped from altering its long-standing practice related to the payment of overtime. The Board's approach is that absent something more than a long standing practice, the party who is the

beneficiary of the practice, which is not supported by the collective agreement, must either accept the fragility of the existence of the practice or it must place the matter squarely on the bargaining table to ensure that it becomes entrenched in the collective agreement. The Board found that it was not reasonably possible for the arbitrator to reach the conclusion that the Employer was estopped from altering its practice. Consequently, the arbitration award was set aside.

***NW Energy (Williams Lake) Corp.*, BCLRB No. B207/2006** – USWA applied for certification for a group of employees represented by CUSW and covered by a collective agreement between CUSW and the Employer. CUSW argued that the operative date of the collective agreement is the date of ratification and argued that the application was untimely as it was not filed within the seventh or eighth month of the collective agreement. The Board did not accept CUSW's argument that the notation on the front of the collective agreement and at the bottom of each page could not be relied upon by a raiding union as a confirmation of the term of the collective agreement as it is not practical or workable to expect that an outsider to the collective agreement would query whether the information on the face of the collective agreement was accurate and commence a thorough review of the collective agreement to look for any conflicting provisions. The application was found to be timely.

***Elite Traffic Control Ltd.*, BCLRB No. B210/2006** – The Employer complained that the Union was in breach of Section 12 by acting in a manner that was arbitrary, discriminatory or in bad faith in representing the employees in the bargaining unit employed by a competitor of the Employer. While employers have generally been given interested party standing in Section 12 complaints, it is not open to an employer to complain about a union's conduct under Section 12 of the Code. Accordingly, the complaint was dismissed.

***Bilfinger Berger (Canada) Inc. (d.b.a. Bilfinger Berger/Fru-Con Joint Venture)*, BCLRB No. B211/2006 (Reconsideration of BCLRB No. B161/2005 and BCLRB No. B272/2005)** – The reconsideration panel found the original panel erred in making a warning a pre-requisite to a finding of proper cause for dismissal of a probationary employee. The reconsideration panel also found that it is not a requirement of the proper cause test under the Code that an employee be "solely responsible" for errors in the workplace. The matter was remitted to a new panel.

***Simpe 'Q' Care Inc.*, BCLRB No. B231/2006** – CLAC applied to be certified for a bargaining unit of employees of the Employer. HEU applied for certification of the same bargaining unit. A vote was held with the ballot box sealed pending determination of CLAC's application. An issue arose as to whether certain revocations were valid. As it is necessary for individuals to have the correct name of the union identified on a revocation form, the Board found the revocations were not valid as they only identified the union as CLAC, with no corresponding local.

***Northstar Lumber, a Division of West Fraser Mills Limited*, BCLRB No. B237/2006** – The Employer applied for a declaration under Section 143, that an article of the parties' collective agreement was "void" because it permitted concerted "work stoppages" during the term of that agreement. The Board held that concerted work refusals to work overtime permitted by the collective agreement are not necessarily caught by the Section 1 definition of "strike".

***Aheer Transportation Ltd.*, BCLRB No. B248/2006 (Leave for Reconsideration denied: BCLRB No. B269/2006)** – Certain Employees applied for decertification. The Union argued the application was untimely and was barred by Section 33(3)(a). The issue raised was whether the time bar applied when the Union certification had resulted from a successorship. The Board found that the

Union should be given an opportunity to negotiate a first collective agreement and to consolidate its support among the employees in the bargaining unit. As such, the Board concluded that the decertification application was barred by Section 33(3)(a).

***West Shore Transport Ltd.*, BCLRB No. B254/2006 (Leave for Reconsideration denied: BCLRB No. B280/2006)** – The Employers applied for review of an arbitration award on the ground that the arbitrator had erred in his interpretation of Section 2(b). The arbitrator interpreted the duty in Section 2(b) to mean that an arbitrator imposing a first collective agreement under Section 55 is prohibited from ordering a compensation package with which the employer's business could no longer survive. The Board found the duty was not limited in the way it had been interpreted by the arbitrator and further, the duty imposed by Section 2(b) must be put in context, both with respect to the other duties set out in Section 2, and in this case, with an arbitrator's role under Section 55. The award was overturned and the matter was remitted to the arbitrator.

***Victoria Times Colonist, a Division of Canwest Mediaworks Publications Inc.*, BCLRB No. B260/2006 (Leave for Reconsideration of BCLRB No. B160/2006)** – The Employer applied for leave and reconsideration of a decision upholding an arbitration award. The application squarely raised the issue of proper deference to an arbitrator's interpretation of a collective agreement provision fundamental to Part 8 of the Code. The proviso is whether the principles in the Code have been properly applied and the "values inherent in the system of arbitration established under Part 8 of the Code" have not been undermined. It is not the Board's role to determine or make comment on the arbitral approach to the KVP rules, subject to the application of them not being inconsistent with the principles in the Code. The Board under its review jurisdiction in Section 99 and 141 of the Code should not be dictating to arbitrators their interpretation and application of the KVP rules, even if that interpretation and application appears anomalous or idiosyncratic in a particular case. To do so, would be inconsistent with the policy of deference in Part 8 of the Code. As it was clear all of the arguments challenged the arbitrator's reasoning in respect to a collective agreement interpretation issue, the decision did not give rise to a reviewable error and the application was denied.

***Canwest Mediaworks Publications Inc.*, BCLRB No. B264/2006 (Leave for Reconsideration of BCLRB No. B129/2006)** – The Employer applied for reconsideration of the decision to decline to grant the Employer's application under Section 70 for a declaration that the Union's unfair employer declaration ("UED") had been unenforceable. The reconsideration panel found the original panel's assessment of whether the UED was "substantially affecting" the Employer focused too narrowly and exclusively on revenue loss. The reconsideration panel found that the issue was not just the amount of revenue lost as of the date of application, or even the amount of revenue loss foreseeable at that time; it is also whether the continuing effect of the UED, assessed at the date of application, appears likely to genuinely interfere with an important aspect of the Employer's business.

***Bestlink Transport Services Inc.*, BCLRB No. B266/2006** – The Board found that certain provisions of the Code not only regulate conduct between employers and unions but also conduct between employers and owner-operators who were independent contractors. The Board found the Employer laid off the owner-operators in contravention of Sections 5(1)(b) and (d) of the Code and that the Employer's conduct in implementing the layoff and return to work agreement contravened Section 9 of the Code.

***Caresource Solutions Inc.*, BCLRB No. B288/2006** – The Board declined to inquire into a complaint where the factual underpinnings of the dispute had been resolved and because it would not serve to foster

conditions favourable to the settlement of disputes or encourage cooperation to resolve workplace disputes, to proceed with the litigation of the matter where there is little at stake as a matter of practical labour relations.

***Gateway Casinos Limited Partnership*, BCLRB No. B299/2006** – Local 40 applied for interested party or intervenor status in a certification application filed by the BCGEU for dealers, dealer supervisors, slot attendants and slot supervisors. Local 40 argued that it had a contingent interest in the application as it would be filing a successorship application. The Board found that the circumstances did not meet the established tests to warrant the exercise of discretion to grant either interested party status or status as an intervenor, as the interests of Local 40 were contingent on future events which may or may not occur.

***Canadian Forest Products Ltd.*, BCLRB No. B312/2006** – Canfor sought a declaration that the Respondents picketed its mill in contravention of Part 5 of the Code, so that it could pursue damages against them in court. This case raised issues with respect to the intersection between political protest and the Code's picketing provisions, in the unique context of back-to-work legislation. The Board found the alleged picketing was regulated by the Code, because it occurred in respect of a dispute to which the Code applies: one which continued despite back-to-work legislation. As to whether the placard-bearing outside the Mill was "picketing" under the Code, the Board determined that, in the context of back-to-work legislation, a "signal effect" approach should govern. Where the placards bear only messages of political protest, and the placard-bearers are careful to be clear that their conduct does not send the message of a picket line, then it should not be regulated as "picketing". However, if the placard-bearers do communicate, by any means, the "signal effect" of picketing – i.e., the message that it is a picket line, and should not be crossed for that reason – then the conduct will be enjoined as picketing. The Board declared that the Individual Respondents picketed Canfor's Mill contrary to Section 67 of the Code. The Board rejected the argument that the picketing that occurred outside the Mill is protected by Section 8 of the Code. The Board also rejected the Respondents' arguments based on Section 96 of the Constitution Act, the "Implied Bill of Rights" doctrine, and their constitutional challenges to the *Health Sector (Facilities Subsector) Collective Agreement Act*. The Board found the "picketing" provisions of the Code represent an infringement of Section 2(b) of the *Charter* that is justified as a reasonable limit in a free and democratic society under Section 1. The Board also found they do not infringe the rights to freedom of assembly or freedom of association in Sections 2(c) and 2(d) of the *Charter*. Accordingly, the picketing provisions of the Code remain valid and applicable. For purposes of certainty, the Board also emphasized that this case arose in the unique context of back-to-work legislation, and it was only in that particular context that the Board determined that a "signal effect" test, rather than the "bright line" test in *Overwaitea*, should apply.

IV. JUDICIAL REVIEW

1 ***Old Dutch Foods Ltd. v. Teamsters Local Union No. 213*, 2006 BCSC 313, [2006] BCJ No. 431 (affirmed on appeal; see below)** – The petitioner sought judicial review of Board decisions which found that distributors of its products could be certified under s. 28 of the Code as a unit of dependent contractors. It was common ground that, in deciding whether or not the distributors are "dependent contractors", the Board was deciding a matter within its exclusive jurisdiction, and accordingly the standard of review was patent unreasonableness. The petitioner argued the Board's decisions were patently unreasonable in three respects. After setting out and discussing the three arguments, and the Board's decisions in relation to them, the Court found that the Board's rejection of these arguments in its decisions was not patently unreasonable. Accordingly, it dismissed the petition.

2 ***Breeden v. West Vancouver (District)*, 2006 BCCA 33, [2006] BCJ No. 127** – The Court of Appeal affirmed the decision of the Chambers Judge that the Board's decision to dismiss the petitioner's s. 12 complaint was not patently unreasonable, and dismissed the appeal.

3 ***Speckling v. Labour Relations Board of B.C. et al.*, 2006 BCSC 285, [2006] BCJ No. 361 (affirmed BCCA 153)** – The petitioner sought judicial review of Board decisions dismissing his s. 12 complaint. Among other things, he argued that, because the issues before the Board were legal issues involving the interpretation of case law and the Code, the appropriate standard of review was correctness. He argued the Board made numerous errors in its decisions. In addition, he argued bias. However, the Court found the applicable standard of review to be patent unreasonableness. The Court considered each of the alleged errors or grounds for review and found they did not establish that the Board's decisions were patently unreasonable. The Court also found the allegation of bias was not made out. Accordingly, the petition was dismissed.

4 ***University of BC v. University of BC Faculty Association et al.*, 2006 BCSC 406, [2006] BCJ No. 545 (appeal pending)** – The petitioner sought judicial review of Board decisions which declined to set aside an arbitrator's award under s. 99. Among the issues raised was whether the Board erred in upholding the award on the basis that it did not conflict with the *University Act* or with s. 2(b) of the *Charter*. This in turn raised a question of the applicable standard of review. All parties agreed the standard of review with respect to the *Charter* issue was correctness. With respect to the issue involving the *University Act*, the question was whether the standard of review was correctness, on the basis that this aspect of the arbitrator's decision dealt with the interpretation of an "external" statute, or patent unreasonableness, as the matter under judicial review was the Board's s. 99 and s. 141 decisions, not the award. The Court found the standard of review to be patent unreasonableness. The Court found the Board's decisions were not patently unreasonable. On the *Charter* issue, the Court found that any infringement of s. 2(b) was justified under s. 1 of the *Charter*. Accordingly, the petition was dismissed.

5 ***Stark v. Vancouver School District No. 39*, 2006 BCCA 124, [2006] BCJ No. 516** – The appellant/petitioner appealed the decision of a Chambers Judge upholding decisions of the Board under s. 99 and s. 141. The appeal was dismissed on the basis that the Chambers Judge correctly concluded the Board's decisions were not patently unreasonable. In dismissing the appeal, the Court of Appeal clarified that s. 99 and s. 100 of the Code constitute a complete code for the review

of labour arbitration awards, and a party dissatisfied with such an award has only those options: it is not possible to seek judicial review of the award by the Supreme Court. The Count dismissed the appeal.

6 ***Communications Energy & Paperworkers Union of Canada, Local 2000 v. Pacific Newspaper Group Inc.*, 2006 BCSC 598, [2006] BCJ No. 837** – The petitioner sought judicial review of a reconsideration decision which had found the Board had jurisdiction to consider a s. 70 application by an employer to have the union's "hot declaration" declared void and unenforceable. The petitioner argued the Board did not have jurisdiction as the "hot declaration" had been issued in respect to a federally regulated dispute (between TWU and Telus). The Board's original decision had found that the Board lacked jurisdiction because the case was indistinguishable from the decision of the Court of Appeal in *Pacific Western Airlines v. B.C. Federation of Labour* (1986), 70 B.C.L.R. 108 ("PWA"). The reconsideration panel had held that the facts were distinguishable, because in PWA it was the struck federal employer that sought relief, whereas in this case it was the provincially-regulated employer which applied. The Court upheld the decision of the reconsideration panel that the Board did have jurisdiction to deal with the application, for reasons given in the Court's decision. Accordingly, the petition was dismissed.

7 ***Compass Group Canada (Health Services) Ltd. v. Hospital Employees' Union*, 2006 BCSC 618, [2006] BCJ No. 883 (appeal pending)** – The petitioner sought judicial review of Board certification decisions, on the basis that the original panel had breached principles of natural justice by admitting certain evidence as relevant but then failing to consider it in determining the central issue of bargaining unit appropriateness. The Court held that, assuming for the purposes of judicial review that the original panel did fail to consider the evidence, the issue would be whether this failure constituted a breach of natural justice. Relying on *Universite du Quebec a Trois Rivieres v. Larocque*, [1993] 1 S.C.R. 471, the Court held that not every failure to consider relevant evidence constitutes a breach; only where the failure to consider the evidence affects the fairness of the proceeding does it constitute a breach. Here the Court found the evidence in question was of such marginal relevance that the petitioner was not denied a fair hearing even if it was overlooked. Accordingly, the petition was dismissed.

8 ***James v. British Columbia (Labour Relations Board)*, 2006 BCSC 784, [2006] BCJ No. 1146 (affirmed 2007 BCCA 30)** – The petitioner sought judicial review of Board decisions dismissing his s. 12 complaint, on the basis of five arguments. The first alleged that the Board denied the petitioner natural justice in refusing to consider four additional arguments. The four grounds alleged the Board's decisions were patently unreasonable in various respects. The Court rejected all five arguments. With respect to the first argument, the court held that, in the context of an unwieldy and lengthy complaint, the Board had the authority to make directions to attempt to simplify and clarify matters in dispute, and that in the circumstances the Board acted fairly in excluding consideration of the four additional arguments. The petition was accordingly dismissed.

9 ***Robert Allan Stark v. Labour Relations Board of B.C.* (July 11, 2006), Vancouver Registry No. S063459 (BCSC)** – The petitioner sought an extension of time under s. 57(2) of the *Administrative Tribunals Act* for filing a new petition seeking judicial review of Board decisions that had already been the subject of judicial review. The application

was dismissed on the basis that, in light of the principle of *res judicata,* the petitioner had not met the test under s. 57(2) to show that there were serious grounds for the relief sought in the petition.

10 ***Canadian Office and Professional Employees' Union, Local 378 v. British Columbia Hydro and Power Authority,* 2006 BCSC 1145, [2006] BCJ No. 1712** – The petitioner sought judicial review of Board decisions rejecting its s. 139 application for a declaration that a newly created position belonged in its bargaining unit, not the IBEW bargaining unit with the employer. The Court found that the decisions were with respect to matters within the Board's exclusive jurisdiction and accordingly review was on a standard of patent unreasonableness. The Board's decisions were found not to be patently unreasonable, and the petition was dismissed.

11 ***United Brotherhood of Carpenters and Joiners of America, Locals 527, 1370, 1598, 1907 and 2397 v. Labour Relations Board,* 2006 BCCA 364, [2006] BCJ No. 1757** – The appellants appealed a decision dismissing a judicial review of Board decisions allowing for the certification of CMAW, a council of trade unions, under s. 18(4)(b) of the Code. The appellants argued the Chambers Judge erred in reviewing the Board's decisions on a standard of patent unreasonableness rather than correctness. They argued that the Board's interpretation of s. 18(4)(b) was a jurisdictional matter, relying in part on *I.U.O.E., Loc. 115 v. C.A.I.M.A.W., Local 19* (1990), 48 B.C.L.R. (2d) 321 (C.A.). The Court of Appeal found the standard of review was patent unreasonableness. In so finding, the Court declined to follow the 1990 decision, holding that it was not determinative of the standard of review in this case. The Court further held that, where the standard of review under s. 58 of the *Administrative Tribunals Act* is in dispute, the pragmatic and functional analysis applies to determine the applicable standard of review under that provision. Applying that analysis, the Court concluded that the Legislature intended the Board, not the Court, to decide the matter at issue in this case. The Court of Appeal affirmed that the Board's decisions were not patently unreasonable. Accordingly, the appeal was dismissed.

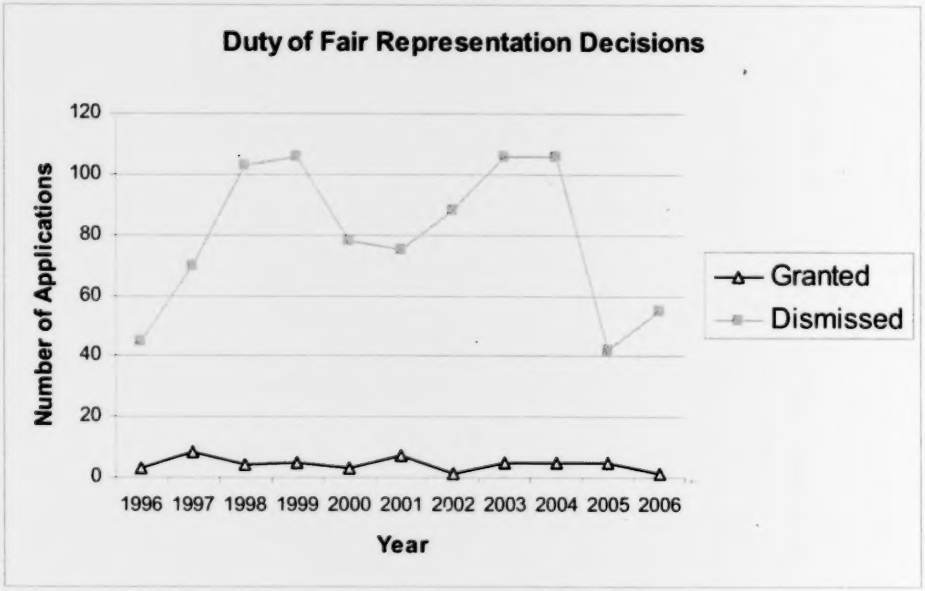
12 ***HEU v. British Columbia (Labour Relations Board),* 2006 BCSC 1334, [2006] BCJ No. 2005** – The petitioner applied for judicial review of Board decisions which held that certain employees ("BMETs"), on being transferred from one health sector bargaining unit to another, would be represented by HSA, not HEU. The petitioner argued, in part, that the Board did not have jurisdiction to make the determination of which bargaining agent would represent the employees on transfer. Alternatively, the petitioner argued the Board's decision was patently unreasonable. The Court held that the Board had jurisdiction to make the determinations in question and the Board's decisions were not patently unreasonable. Accordingly, the petition was dismissed.

13 ***Old Dutch Foods Ltd. v. Teamsters Local Union No. 213,* 2006 BCCA 553, [2006] BCJ No. 3127** – The Court of Appeal upheld the Chambers Judge's determination on judicial review that the Board's decisions were not patently unreasonable. Accordingly, the appeal was dismissed.

14 ***Well-Being Seniors Services Ltd. and Nanaimo Seniors Village Partnership v. British Columbia Labour Relations Board and Hospital Employees' Union* (December 5, 2006), Vancouver Registry No. S060090 (BCSC)** – The petitioner sought judicial review of Board decisions that found it had committed unfair labour practices in laying off its employees and contracting out their work

during the course of an organizing drive. The petitioner also sought judicial review of a true employer determination, and argued that, as that determination was made pursuant to s. 6(3) of the *Health and Social Services Delivery Improvement Act*, it was reviewable on a standard of correctness. The Court held that all challenged aspects of the Board's decisions were made with respect to matters within the Board's exclusive jurisdiction, and accordingly the standard of review was patent unreasonableness. The Court found the Board's decisions were not patently unreasonable, and dismissed the petition.

15 ***HEU v. BCLRB, Nanaimo Seniors Village Partnership and Well-Being Seniors Services Ltd.*, 2006 BCSC 1879, [2006] BCJ No. 3258** – The petitioner sought judicial review of Board decisions which held that its application for certification was barred by a 10-month time limit flowing from a previous decertification of another union. The petitioner argued the Board made a jurisdictional error or, alternatively, that its decision was patently unreasonable. The Court found the matters decided by the Board were within the Board's exclusive jurisdiction and accordingly review was on a standard of patent unreasonableness. The Board's decisions were found not to be patently unreasonable, and accordingly the petition was dismissed.


Duty of Fair Representation Decisions
Number of Applications
120
100
80
60
40
20
0
1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006
Year
Granted
Dismissed

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EXPLANATORY NOTES TO TABLES

The following tables provide an analysis of the applications filed and disposed of in 2006. In some cases, statistics from 2005 and other years are provided for comparative purposes.

As of 2005 Table 1 of the *LRB Annual Report* includes applications and complaints "Filed Previous" and "Remainder Active". These figures help provide an overview of the active or current caseload at the Labour Relations Board.

Statistical Tables Definitions:

- **Application / Complaint**: a section or subsection of the *Labour Relations Code*. A 'case' may be comprised of more than one application or complaint (section);
- **Filed Previous**: count of applications / complaints received prior to the report period but not disposed of prior to the report period;
- **Filed Current**: count of applications / complaints received in the report period.
- **Disposed of Current**: count of applications / complaints with a final disposition in the report period;
- **Remainder Active**: count of applications / complaints received prior to the end of the report period (may be included in the filed previous count or filed current count) which have no final disposition as of the report end date.

In previous years, a number of other changes have been made in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for reference.

Changes in Tables

Tables available in previous years regarding vote information for representation applications, details of Part 5 applications, and details of Mediation Officer appointments were taken out of the Annual Report in 2004.

Certification cancellation information (s.33(2)) was added to tables 1A, 1B, 2 and 2A as of 2004. Other information previously included in Table 1 footnotes has been moved to related tables for ease of reference and readability.

Applications for Collective Agreement Arbitration

The Labour Relations Board assumed the processing of these applications from the Collective Agreement Arbitration Bureau on July 5, 2002; however, due to technical and procedural considerations, applications under Sections 86, 87, 104 and 105 ("CAAB" applications) were counted in the Board's statistics only if received on or after January 1, 2003 (i.e., any 'outstanding' CAAB applications at the end of 2002 are not included in the Board's statistics).

Requests for Appointment of a Mediator

Applications to appoint a Mediator under Section 74 were counted as applications for the first time in the 2002 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications were processed by the Board/Council prior to 2002 but appeared only in the "Analysis of Mediator Appointments" Table for those years.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 to 1996, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board has decided to revert to the pre-1989 method of counting these complaints. The change affects the statistics published as Sections 2,3 and 4 of the *Industrial Relations Act* and Sections 5,6,7 and 9 of the *Labour Relations Code*. The following table displays the statistics as they were published and as they would have been under the pre-1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss.5,6,7 and 9 of the *Labour Relations Code* or ss.2,3, and 4 of the *Industrial Relations Act*)	1995	825	909	26	0	573	192	118	0	449
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	899	831	9	0	586	136	100	0	362
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	748	676	3	0	440	134	99	0	331
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	416	345	0	0	205	108	32	0	176
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	346	370	0	0	241	92	37	0	NP
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	386	388	5	0	220	100	63	0	NP
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	209	177	0	0	96	47	34	0	NP
	1989 (rev)	123	118	0	0	61	36	21	0	

NP --Not Published

Stay Applications

Applications for a Stay of proceedings were counted as applications for the first time in 1993 (see Table 1: "Applications and Complaints Filed and Disposed of"). A footnote has been added to the Miscellaneous category to facilitate comparisons over time. In previous years, these applications were not counted.

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each employee in question if a ruling was made; if the application was withdrawn, it was counted as one application regardless of the number of employees involved. From 1989 on, an application regarding the inclusion or exclusion of employees is counted as one application regardless of the number of

employees in question and regardless of whether or not a ruling is made.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989 (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications had been processed by the Board/Council since 1974 but were not registered or counted prior to 1989.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover, for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 is counted as a separate application.

GENERAL NOTES

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled including cases for which the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1: Applications and Complaints Filed and Disposed of in 2006 (including comparative figures for 2005)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Complaints of Unfair Labour Practices												
Complaints Regarding Internal Union Affairs (s.10)	2006	8	16	15	2	0	2	3	8	0	9	2
	2005	7	11	10	3	0	1	2	4	0	8	1
Complaints Regarding Duty to Bargain in Good Faith (s.11)	2006	7	32	28	0	0	17	7	4	0	11	4
	2005	22	15	30	0	0	25	1	4	0	7	9
Complaints Regarding Duty of Fair Representation (s.12)	2006	29	98	99	34	0	9	1	55[1]	0	27	5
	2005	31	99	101	44	0	10	5	42[2]	0	29	7
Other Unfair Labour Practice Complaints (ss.5,6,7,8 and 9)[3]	2006	84	210	231	0	0	167	36	28	0	63	127
	2005	108	225	249	0	0	180	34	35	0	84	76
Religious Exemption (s.17)	2006	0	7	7	0	0	0	6	1	0	0	0
	2005	2	6	8	1	1	0	5	1	0	0	0
Certification Applications (ss.18, 19 and 28)	2006	37	187[4]	182	0	55	0	89	38	0	41	154
	2005	229	226	418	0	47	0	266[5]	105	0	37	349

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[1] 24 of the 55 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

[2] 17 of the 42 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.

[3] In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. Figures in this category reported prior to 1996 cannot be compared to figures in this category reported from 1996 to present.

[4] Includes 12 'raid' applications to expand the bargaining unit of an existing certification. In 2006, four such applications were disposed of: all withdrawn.

[5] The total number of *certification applications granted* may not equal the total number of *certifications issued* in a given period. Occasionally more than one certification is issued for a single granted application, or, conversely, a single certification is issued where multiple applications for certification are granted. In 2005, 266 certification applications were granted resulting in 249 certifications being issued.

TABLE 1: Applications and Complaints Filed and Disposed of in 2006 (including comparative figures for 2005)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Certification Variances (ss.28 and 142)	2006	18	152[1]	152[2]	2	23	0	117	10	0	18	35
	2005	47	165[3]	194[4]	0	18	0	141	35	0	18	64
Certification Cancellations (ss.33 and 142)[5]	2006	10	66	65	1	7	0	46	11	0	11	54
	2005	32	59	81	3	11	0	56	11	0	10	54
Cancellation of a Voluntary Recognition (s.34)	2006	2	5	7	1	2	0	4	0	0	0	3
	2005	3	8	9	0	1	0	6	2	0	2	8
Permission to Alter Conditions of Employment (ss.32 and 45)	2006	0	3	1	0	0	0	1	0	0	2	0
	2005	0	3	3	0	3	0	0	0	0	0	0
Alleged Unlawful Alteration of Employment Terms and Conditions (ss.32 and 45)	2006	15	34	35	0	0	26	0	9	0	14	23
	2005	11	41	37	0	0	22	13	2	0	15	17
Declaration of Successor Status												
Successor Employer (s.35)	2006	25	85	83	1	17	0	59	6	0	27	10
	2005	36	58	69	0	15	0	48	6	0	25	10

[1] Includes 10 'partial decertification' applications.
[2] Includes 11 'partial decertification' applications. See TABLE 3.
[3] Includes five 'partial decertification' applications.
[4] Includes seven 'partial decertification' applications. See TABLE 3.
[5] See TABLE 3.

TABLE 1: Applications and Complaints Filed and Disposed of in 2006 (including comparative figures for 2005)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Successor Union (s.37[1])	2006	1	11	9	0	2	0	7	0	0	3	0
	2005	55	9	63	0	0	0	61[2]	2	0	1	3
Common Employer (s.38)	2006	14	17	15	0	10	0	2	3	0	16	4
	2005	25	19	30	0	17	0	4	9	0	14	13
Accreditation Applications (s.43)	2006	0	0	0	0	0	0	0	0	0	0	0
	2005	1	0	1	0	1	0	0	0	0	0	1
Accreditation Variances (ss.43 and 142)	2006	0	6	5	0	0	0	5	0	0	1	0
	2005	4	5	9	0	0	0	9	0	0	0	0
Accreditation Cancellations (s.142)	2006	0	0	0	0	0	0	0	0	0	0	0
	2005	0	0	0	0	0	0	0	0	0	0	0
Alleged Failure to Execute or Comply with a Collective Agreement (s.49)	2006	3	12	11	0	0	7	1	3	0	4	0
	2005	5	7	9	0	0	4	3	2	0	3	2
First Collective Agreement (s.55)	2006	1	25	21	0	0	18	n/a	n/a	3[3]	5	1
	2005	2	5	6	0	0	3	n/a	n/a	3[3]	1	0
Appointment of a Mediation Officer (s.74)	2006	17	148	150	0	0	117	n/a	n/a	33[3]	15	0
	2005	23	88	94	0	0	81	n/a	n/a	13[3]	17	0

[1] The workload required to process applications in this category varies widely. The Board may receive one application per collective bargaining relationship or one application covering several collective bargaining relationships. This report reflects the number of applications filed and disposed of regardless of the number of collective bargaining relationships affected by those applications (any notable discrepancies are listed below).

[2] 61 applications granted affecting 2,814 collective bargaining relationships: the IWA / Steelworkers applications affected 2,210 collective bargaining relationships (counted as 11 granted applications - one for each individual local), the Hotel 40 / UNITE HERE application affected 555 collective bargaining relationships, and 49 other applications were granted each affecting a single collective bargaining relationship.

[3] Applications in these categories may be disposed of as "Other" for the following reasons: unit decertified, business closed, matter referred to arbitration, parties allowed to exercise their right to strike/lockout (under s.55(6)), or the Mediator reported out of the dispute at the request of one or more parties. The latter example may include applications for which a settlement is ultimately reached at a later date.

TABLE 1: Applications and Complaints Filed and Disposed of in 2006 (including comparative figures for 2005)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Collective Agreement Arbitration Bureau (CAAB)[1]												
Section 86 (Appointment of Arbitrator)	*2006*	*3*	*63*	*53*	*1*	*31*	*0*	*n/a*	*n/a*	*21*[2]	*13*	*n/a*
	2005	*4*	*64*	*65*	*0*	*36*	*0*	*n/a*	*n/a*	*29*[2]	*3*	*n/a*
Section 87 (Appointment of Settlement Officer)	*2006*	*11*	*32*	*41*	*0*	*7*	*33*	*n/a*	*n/a*	*1*[3]	*2*	*n/a*
	2005	*4*	*58*	*51*	*2*	*5*	*31*	*n/a*	*n/a*	*13*[3]	*11*	*n/a*
Section 104 (Appointment of Arbitrator)	*2006*	*10*	*177*	*177*	*1*	*35*	*25*	*n/a*	*n/a*	*116*[4]	*5*	*n/a*
	2005	*5*	*194*	*189*	*1*	*35*	*31*	*n/a*	*n/a*	*122*[4]	*10*	*n/a*
Section 105 (Appointment of Mediator-Arbitrator)	*2006*	*0*	*6*	*6*	*0*	*1*	*0*	*n/a*	*n/a*	*5*[5]	*0*	*n/a*
	2005	*1*	*14*	*15*	*0*	*0*	*0*	*n/a*	*n/a*	*15*[5]	*0*	*n/a*
Combined CAAB Sections	***2006***	***24***	***278***	***277***	***2***	***74***[6]	***58***[7]	***n/a***	***n/a***	***143***	***20***	***n/a***
	2005	***14***	***330***	***320***	***3***	***76***[6]	***62***[8]	***n/a***	***n/a***	***179***	***24***	***n/a***

[1] These applications were included in the *LRB Annual Report* for the first time in 2003. Beginning in 2004, figures for individual sections as well as the combined totals for "CAAB" (ss.86, 87, 104, 105) are included in this report. In general, for this category, "Withdrawn" indicates withdrawal / settlement prior to any appointments and "Settled" indicates withdrawal / settlement subsequent to the appointment of a Settlement Officer but prior to appointment of an Arbitrator (for further details on Settlement Officer appointments, see TABLE 9). For the purposes of this table, "Hearing Held" indicates a Labour Relations Board evidentiary hearing and therefore arbitration hearings are not included for these categories. See individual notes below regarding "Other" dispositions.

[2] Arbitrator appointed (recorded in previous 2004 and 2003 reports as "Granted").

[3] Matter referred back to the parties under Section 87(3).

[4] Arbitrator appointed (recorded in previous 2004 and 2003 reports as "Granted"). For 38 cases in 2006 and 21 cases in 2005, a Settlement Officer was appointed in addition to an Arbitrator.

[5] Mediator-Arbitrator appointed.

[6] For previous 2004 and 2003 reports, this figure is defined in a footnote regarding the number of CAAB applications "Settled". See Note 1 for further detail.

[7] For CAAB applications disposed of in 2006, 69 (71%) of 97 Settlement Officer appointments resulted in full and final settlement.

[8] For CAAB applications disposed of in 2005, 68 (72%) of 95 Settlement Officer appointments resulted in full and final settlement.

TABLE 1: Applications and Complaints Filed and Disposed of in 2006 (including comparative figures for 2005)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss.57-67 and ss.69-70)	2006	21	60	76	1	0	45	22	8	0	5	37
	2005	40	119	138	0	0	91	41	6	0	21	96
Replacement Workers (s.68)	2006	0	7	7	0	0	3	1	3	0	0	5
	2005	0	5	5	0	0	5	0	0	0	0	3
Essential Service Designations (s.72)	2006	1	12	10	0	0	7	3	0	0	3	5
	2005	1	14	14	0	0	1	13	0	0	1	12
Last Offer Vote (s.78)	2006	0	18	18	0	1	0	16[1]	1	0	0	1
	2005	0	15	15	0	1	0	14[2]	0	0	0	0
Review of Arbitration Award (s.99)	2006	29	40	50	0	7	0	11	32	0	19	2
	2005	16	49	36	0	4	0	6	26	0	29	1
Interim Order (s.133(5))	2006	0	14	11	0	4	0	2	5	0	3	6
	2005	5	13	18	0	7	0	6	5	0	0	11
File an Order in Supreme Court (s.135)	2006	2	22	22	0	12	1	9	0	0	2	0
	2005	4	43	45	0	14	0	30	1	0	2	0
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	2006	29	44	43	0	22	0	0	0	21[3]	30	12
	2005	54	28	53	0	30	0	0	0	23[3]	29	20

[1] In 13 cases the final offer was rejected, in one case the offer was accepted, in one case the application was withdrawn prior to the ballots being counted, and in one case the vote was conducted but ballots sealed pending adjudication of a subsequent application.

[2] In eight cases the final offer was rejected, in five cases the offer was accepted; and in one case the application was withdrawn prior to the ballots being counted.

[3] Ruling made.

TABLE 1: Applications and Complaints Filed and Disposed of in 2006 (including comparative figures for 2005)

Type of Application / Complaint	Year	Filed Previous	Filed Current	Disposed of - Current							Remainder Active	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Reconsideration of a Decision (s.141)	2006	19	75	72	0	9	0	8	55[1]	0	22	1
	2005	27	79	87	0	11	0	8	68[2]	0	19	4
Declaratory Opinion (excluding Declaratory Opinions Pertaining to Part V of the Legislation) (s.143)	2006	2	4	1	0	0	0	0	1	0	5	1
	2005	1	3	2	0	1	0	0	1	0	2	1
Miscellaneous	2006	12	59[3]	54[4]	0	4	16	26	8	0	17	3
	2005	29	52[5]	69[6]	0	11	17	19	22	0	12	7
Total	**2006**	**410**	**1747**	**1757**	**44**	**249**	**493**	**482**	**289**	**200**	**393**	**495[7]**
	2005	**834**	**1799**	**2223**	**54**	**269**	**502**	**791**	**389**	**218**	**410**	**769[8]**

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

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1 For 46 of the 55 applications dismissed in 2006, leave to apply was denied.

2 For 58 of the 68 applications dismissed in 2005, leave to apply was denied.

3 includes 10 stay applications.

4 Includes nine stay applications (one was granted, six were dismissed, and two were withdrawn).

5 Includes 17 stay applications.

6 Includes 17 stay applications (one was granted, 15 were dismissed, and one was withdrawn).

7 495 applications disposed of in 2006 were heard sometime during the process. In 2006, the Board held 341 hearings (including 218 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2006.

8 769 applications disposed of in 2005 were heard sometime during the process. In 2005, the Board held 391 hearings (including 283 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2005.

Chart 1:
Number of Applications and Complaints FILED in 2006 - by Type

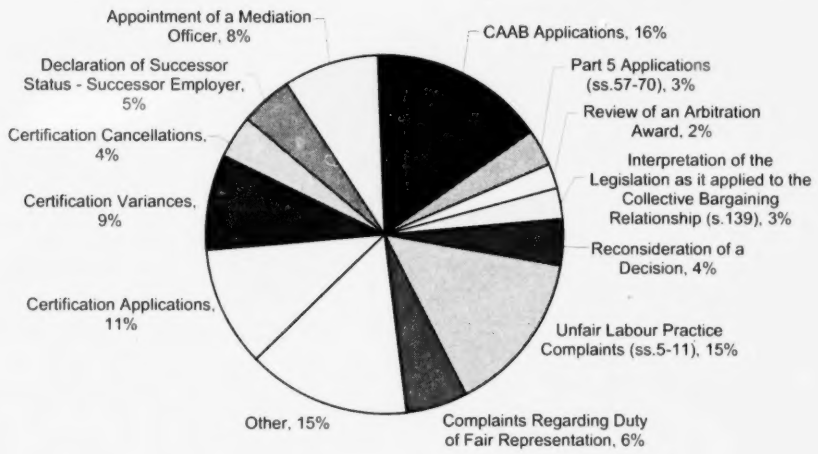
Appointment of a Mediation Officer, 8%
CAAB Applications, 16%
Declaration of Successor Status - Successor Employer, 5%
Part 5 Applications (ss.57-70), 3%
Review of an Arbitration Award, 2%
Certification Cancellations, 4%
Interpretation of the Legislation as it applied to the Collective Bargaining Relationship (s.139), 3%
Certification Variances, 9%
Reconsideration of a Decision, 4%
Certification Applications, 11%
Unfair Labour Practice Complaints (ss.5-11), 15%
Other, 15%
Complaints Regarding Duty of Fair Representation, 6%

TABLE 1A: Certification Applications and Certification Cancellations Under S.33(2) Granted - Analyzed by Industry
Year 2006

Type of Industry	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Number of Employees[2]	Number of Applications Granted	Number of Employees[3]
Accommodation, Food and Beverage Services	2	48	6	101
Business Services	2	30	0	0
Construction	16	194	4	63
Educational Services	3	100	0	0
Finance and Insurance	0	0	1	56
Government Services	7	77	1	7
Health and Social Services	23	861	2	54
Manufacturing	8	237	7	241
Mining (Including Milling), Quarrying and Oil Wells	1	3	0	0
Retail Trade	2	55	11	352
Transportation and Storage	14	295	3	23
Wholesale Trade	1	4	3	86
Other Services	10	1871	4	341
Total	**89**	**3775**	**42**	**1324**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under Section 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the "Certification Cancellations" category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form.

[3] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer.

Chart 1A: Certification Applications Granted by Industry Type (Number of Applications)

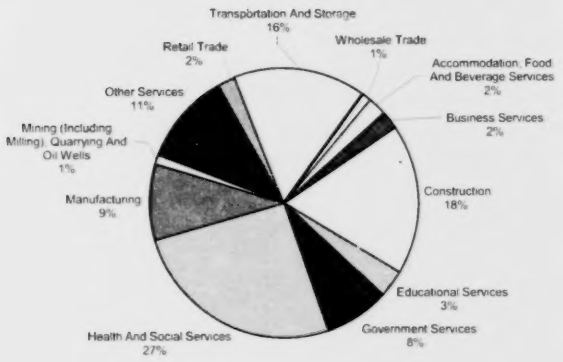

Chart 1B: Certification Applications Granted by Industry Type (Number of Employees)

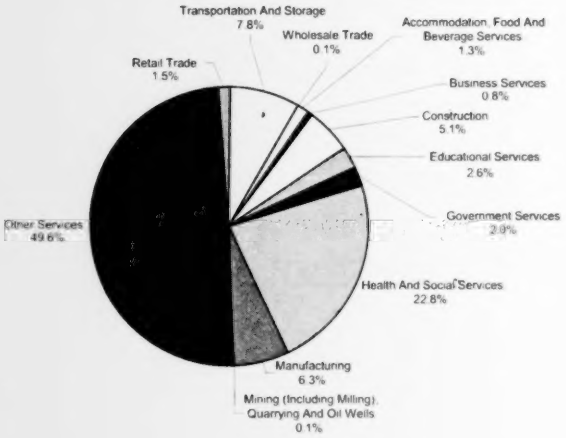

Chart 1C: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Applications)

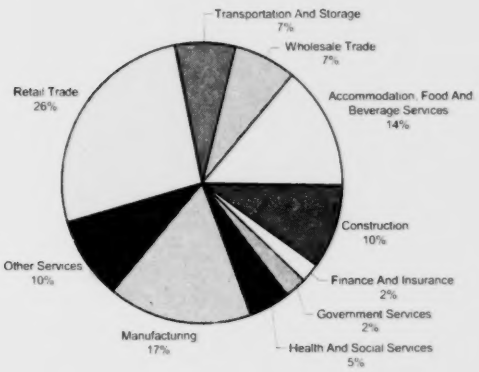

Chart 1D: Certification Cancellations (s.33(2)) Granted by Industry Type (Number of Employees)

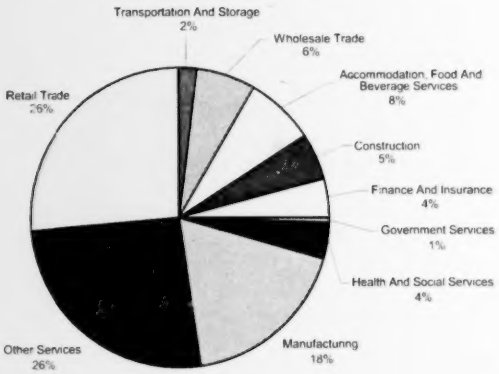

TABLE 1B: Certification Applications and Certification Cancellations Under S.33(2) Filed / Granted - Analyzed by Union
Year 2006

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
BCGEU	24	15	2	2
Boilermakers	0	0	2	2
Carpenters (not including CMAW or CAST)	1	1	0	1
CAST (formerly CFAW Bargaining Council)	9	3	0	0
CMAW Bargaining Council	10	3	1	1
CAW	6	11	8	4
CEP	10	3	3	2
CLAC	7	3	0	0
COOWA	0	1	0	0
CUPE	9	8	5	4
Cement Masons (formerly identified as Plasterers)	4	0	0	0
Electrical Workers (IBEW)	3	2	1	1
Elevator Constructors	1	0	0	0
Fire Fighters	1	0	0	0
Food and Commercial Workers (UFCW)	9	3	8	8
Hospital Employees Union (HEU)	26	9	0	0
Hotel Employees	0	0	9	6
IATSE	1	0	0	0
Iron Workers	1	0	0	0
Labourers	5	2	0	0
Longshore (ILWU)	4	2	0	0
Machinists and Aerospace Workers	4	1	0	0

TABLE 1B: Certification Applications and Certification Cancellations Under S.33(2) Filed / Granted - Analyzed by Union
Year 2006

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
Merchant Service Guild	1	1	0	0
Millwrights	7	1	0	0
Nurses (BCNU)	1	0	0	0
Operating Engineers (IUOE)	15	7	5	2
Painters (not including Glaziers 1527)	12	1	0	0
Professional Employees (PEA)	1	1	0	0
PPWC	3	0	0	0
Retail Wholesale Employees (RWU)	2	2	1	0
Service Employees (SEIU)	0	0	1	1
Steelworkers	10	6	1	1
Teamsters	5	2	8	7
Single Employer Independent Union	1	1	0	0
Total	**187**[3]	**89**	**55**	**42**

[1] Only those certification cancellation applications brought by employees under S.33(2) of the *Labour Relations Code* are included in this table. Thus, the number of applications filed and/or granted may not equal the corresponding figure from the "Certification Cancellations" category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[2] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[3] Adding the individual numbers in the column produces a larger number because five applications were filed jointly by more than one union.

TABLE 2: Certification Applications and Certification Cancellations Under S.33(2) Filed / Decided Year 2006

Type of Application		Filed	Granted	Dismissed	Total 'Decided'
Total Certification Applications	Number of Applications	187	89	38	127
	Number of Employees[1]	10 599	3775	1893	5668
Certification Applications for Previously Unorganized Employees	Number of Applications	154	80	35	115
	Number of Employees	9016	3249	1696	4945
Certification Applications for Organized Employees	Number of Applications	33[2]	9	3	12
	Number of Employees	1583	526	197	723
Total Applications to Cancel a Certification Brought by Employees under S.33(2)[3]	Number of Applications	54[4]	42	9	51
	Number of Employees[5]	2057	1324	447	1771

[1] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

[2] Includes 12 'raid' applications (covering a total of 204 employees) to expand the bargaining unit of an existing certification. In 2006, four such applications were disposed of: all withdrawn.

[3] Since only those certification cancellation applications brought by employees under S.33(2) of the *Labour Relations Code* are included in this table, the number of applications filed and/or decided may not equal the corresponding figure from the "Certification Cancellations" category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[4] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[5] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer. The number of employees on an application for which a Return of Poll is either not available or not applicable (in particular, for the number of applications Filed) is based on the bargaining unit size listed in the report of the Industrial Relations Officer.

TABLE 2A: Certification Applications and Certification Cancellations Under S.33(2) Granted - Analyzed by Size of Bargaining Unit
Year 2006

	Certification Applications		Certification Cancellations[1]	
Number of Employees	Number of Applications	Percentage of Applications	Number of Applications	Percentage of Applications
1 to 10	33	37.1%	15	35.7%
11 to 20	25	28.1%	4	9.5%
21 to 30	7	7.9%	7	16.7%
31 to 40	7	7.9%	5	11.9%
41 to 50	7	7.9%	5	11.9%
51 to 60	3	3.4%	2	4.8%
61 to 70	1	1.1%	1	2.4%
71 to 80	0	0.0%	0	0.0%
81 to 90	0	0.0%	1	2.4%
91 to 100	0	0.0%	0	0.0%
101 to 200	4	4.5%	1	2.4%
Over 200	2	2.3%	1	2.4%
Total	**89**	**100%**	**42**	**100%**

[1] Since only those certification cancellation applications brought by employees under S.33(2) of the *Labour Relations Code* are included in this table, the number of applications granted may not equal the corresponding figure from the "Certification Cancellations" category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

Chart 2A: Certification Applications Granted in 2006 Analyzed by Size of Bargaining Unit (Number of Employees)

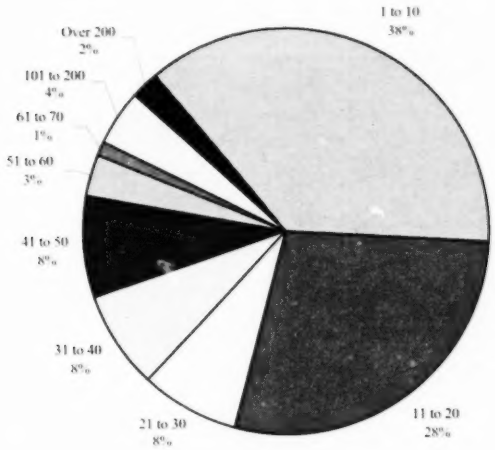

Chart 2B: Certification Cancellations (s.33(2)) Granted in 2006 Analyzed by Size of Bargaining Unit (Number of Employees)

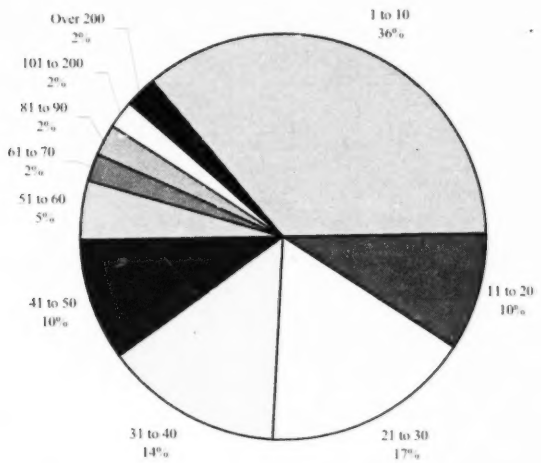

TABLE 2B: Certification Applications Granted Between 1990 and 2006 by Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		Total
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348[1]
1999	239	65.8%	65	17.9%	59	16.3%	363[2]
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88
2003	54	72.0%	11	14.7%	10	13.3%	75[3]
2004	58	65.9%	17	19.3%	13	14.8%	88
2005	170	63.9%	62	23.3%	34	12.7%	266[4]
2006	58	65.2%	21	23.6%	10	11.2%	89

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

[2] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

[3] Five separate certification applications for the same employee bargaining unit were granted and simultaneously consolidated resulting in the issuance of a single certification; thus the total number of new certifications granted for a bargaining unit size between 1 and 10 employees is 35 and the total number of certifications granted in 2003 is 71.

[4] A number of applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit(s). A further application was granted and two certifications issued as a result. In total, in 2005, 266 certification applications were granted resulting in 249 certifications being issued.

TABLE 3: Applications to Cancel Certifications Disposed of Year 2006 and Year 2005

Type of Applicant (and Application)	Year	Granted	Dismissed	Not Proceeded With	Withdrawn	Total
Filed by Employee(s) (S.33)	2006	42	9	1	5	57
	2005	40	10	3	9	62
Filed by Employee(s) (S.142 - "Partial Decertification")[1]	2006	7	3	0	1	11
	2005	3	2	0	2	7
Filed by Employer(s)	2006	2	2	0	1	5
	2005	3	1	0	0	4
Filed by Union(s)	2006	2	0	0	1	3
	2005	13	0	0	2	15
Total	**2006**	**53**	**14**	**1**	**8**	**76**
	2005	**59**	**13**	**3**	**13**	**88**

[1] Applications filed under Section 142 for "Partial Decertification" are included in TABLE 1 under the category "Certification Variances"; therefore, subtracting the number of applications filed by employees under S.142 from the Total number of applications disposed of in TABLE 3 will equal the number of applications disposed of in TABLE 1 for the "Certification Cancellations" category.

TABLE 4: Reconsiderations Disposed of in 2006

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty to Bargain in Good Faith	1	0	0	2	0	3
Duty of Fair Representation	15	0	1	0	0	16
"Other" Unfair Labour Practice Complaint Adjudication	3	1	1	0	0	5
Certification	1	2	3	1	0	7
Variance of a Certification	2	1	0	0	0	3
Partial Decertification	0	0	0	1	0	1
Cancellation of Certification	2	0	0	0	0	2
Declaration of Employer Successor Status	1	2	0	0	0	3
Declaration of Trade Union Successor Status	0	0	0	1	0	1
Common Employer	1	0	0	0	0	1
Alleged Illegal Strikes, Lockouts, Picketing, etc.	3	2	2	1	0	8
First Collective Agreement	0	0	0	1	0	1
Essential Services Designation	0	0	0	1	0	1
Last Offer Vote	1	0	0	0	0	1
Review of Arbitration Award	8	0	1	0	0	9
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	3	1	0	0	0	4
Declaratory Opinion	1	0	0	0	0	1
Ruling re: Procedure	3	0	0	1	0	4
Ruling re: Remedy	1	0	0	0	0	1
TOTAL	**46**	**9**	**8**	**9**	**0**	**72**

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	7	5	7	4	0	23
Union(s)	21	4	1	5	0	31
Employee(s)	18	0	0	0	0	18
TOTAL	**46**	**9**	**8**	**9**	**0**	**72**

Chart 4: Reconsiderations Disposed of in 2006
(Types of Applications Being Reconsidered)

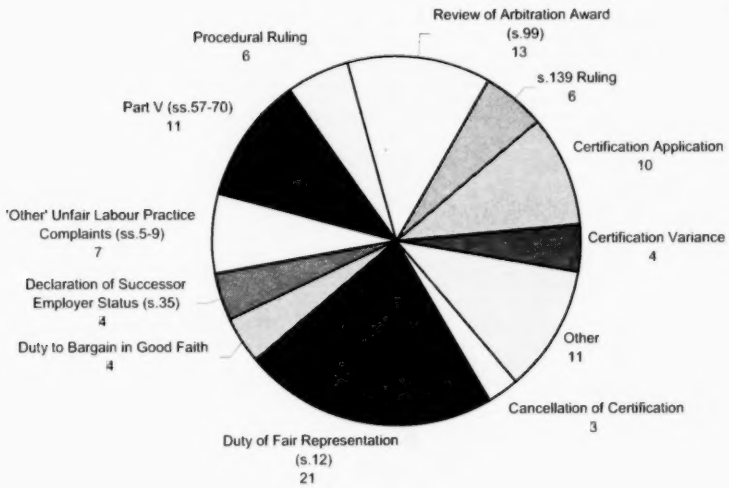
Review of Arbitration Award (s.99) 13
s.139 Ruling 6
Certification Application 10
Certification Variance 4
Other 11
Cancellation of Certification 3
Duty of Fair Representation (s.12) 21
Duty to Bargain in Good Faith 4
Declaration of Successor Employer Status (s.35) 4
'Other' Unfair Labour Practice Complaints (ss.5-9) 7
Part V (ss.57-70) 11
Procedural Ruling 6

TABLE 5: "Success" Rate of Reconsiderations Disposed of in 1996 to 2006

Year	Total Applications Disposed of	Withdrawn	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
1996	87	7	80	8	10%
1997	113	21	92	17	18%
1998	134	20	114	11	10%
1999	150	9	141	'22	16%
2000	129	11	118	19	16%
2001	111	13	98	23	23%
2002	92	8	84	19	23%
2003	111	11	100	19	19%
2004	112	6	106	12	11%
2005	87	11	76	8	11%
2006	72	9	63	8	13%

TABLE 6: "Success" Rate of Reviews of Arbitration Awards Disposed of in 1996 to 2006

Year	Total Applications Disposed of	Withdrawn	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
1996	67	8	59	13	22%
1997	66	13	53	8	15%
1998	65	10	55	13	24%
1999	54	11	43	7	16%
2000	69	5	64	15	23%
2001	60	13	47	16	34%
2002	58	4	54	12	22%
2003	55	7	48	10	21%
2004	58	8	50	11	22%
2005	36	4	32	6	19%
2006	50	7	43	11	26%

Chart 5: "Success" Rate of Reconsiderations

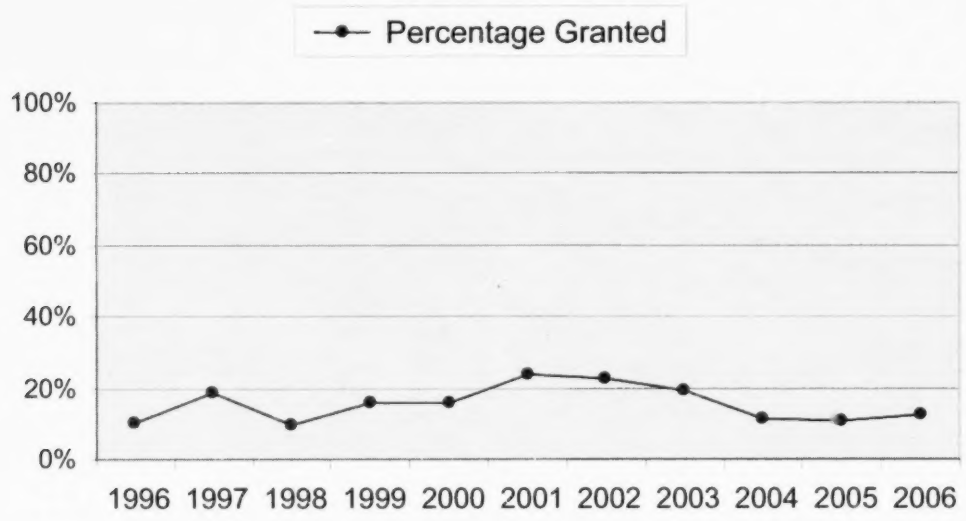

Chart 6: "Success" Rate of Review of Arbitration

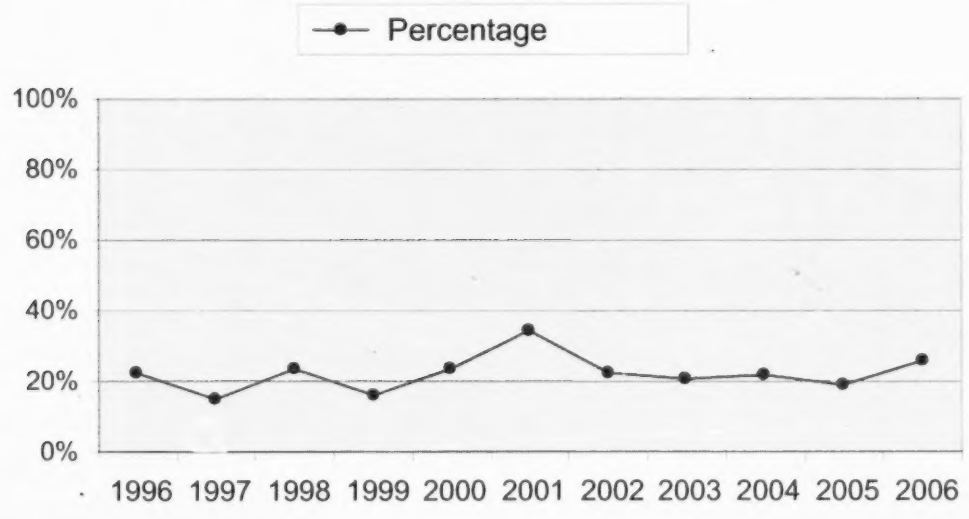

TABLE 7: Applications and Complaints Filed in 2006 Analyzed by Applicant

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs	0	1	16	0	16
Complaints Regarding Duty to Bargain in Good Faith	8	24	0	0	32
Complaints Regarding Duty of Fair Representation	1	0	97	0	98
Other Unfair Labour Practice Complaints	5	202	9	0	210
Religious Exemption	0	0	7	0	7
Certification Application	0	187	0	0	187
Certification Variance	36	131	10	0	152
Certification Cancellation	8	3	55	0	66
Cancellation of a Voluntary Recognition	0	1	4	0	5
Permission to Alter Conditions of Employment	3	0	0	0	3
Alleged Unlawful Alteration of Employment Terms and Conditions	0	34	0	0	34
Declaration of Successor Status					
Successor Employer	14	71	0	0	85
Successor Union	0	11	0	0	11
Common Employer	1	16	0	0	17
Accreditation Variances	4	2	0	0	6
Alleged Failure to Execute or Comply with Collective Agreement	3	9	0	0	12
First Collective Agreement	5	20	0	0	25
Appointment of a Mediation Officer	54	99	0	0	148
CAAB Applications					
Section 86 (Appointment of Arbitrator)	*5*	*58*	*0*	*0*	*63*
Section 87 (Appointment of Settlement Officer)	*15*	*29*	*0*	*0*	*32*
Section 104 (Appointment of Arbitrator)	*8*	*169*	*0*	*0*	*177*
Section 105 (Appointment of Mediator-Arbitrator)	*6*	*6*	*0*	*0*	*6*
Combined CAAB Sections	***34***	***262***	***0***	***0***	***278***
Part V Applications (Strikes, Lockouts, Picketing, etc.)	47	11	2	0	60
Replacement Workers	0	7	0	0	7
Essential Service Designations	0	0	0	12	12
Last Offer Vote	18	0	0	0	18

[1] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 7: Applications and Complaints Filed in 2006 Analyzed by Applicant

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Review of Arbitration Award	20	15	5	1	40
Interim Order	7	6	2	0	14
File Order in Supreme Court	13	8	1	0	22
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	7	34	3	0	44
Reconsideration of a Decision	27	27	21	0	75
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part V of the Legislation)	1	3	0	0	4
Miscellaneous	17	36	3	3	59
TOTAL	**333**	**1220**	**235**	**16**	**1747[1]**

[47] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 8: Time Required to Process Certain Applications Disposed of in 2006

Type of Application	Number of Applications Disposed of[1]	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under S.6 of the *Labour Relations Code* Where a Dismissed Employee is Involved	48	80	48
Complaints Regarding Duty of Fair Representation (S.12)	65	176	123
Certification Applications (Ss.18, 19, 28)	183	56	13
Certification Cancellations (S.33(2))	64	91	12
Declaration of Successor Employer (S.35)	82	133	38.5
Common Employer (S.38)	15	258	151
Review of Arbitration Award (S.99)	50	188	133.5
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (S.139)	43	290	160
Reconsideration of a Decision (S.141)	72	123	73

[1] Does not include applications not proceeded with because applicant did not file sufficient information.

TABLE 9: Officer Assignments Completed in 2006

	Assignment Outcome						
Type of Application / Complaint	Settled/ Withdrawn	Resolved Issues / Assisted at Hearing	Narrowed Issues / Assisted at Hearing	To Adjudication (No Informal)	Report of Investigation	Other[1]	Total
Part V (ss.57 to 70)[2]	10	2	4	3	1	1	21
Unfair Labour Practice (ss.5 to 11)[3]	43	0	8	20	1	1	73
Certification & Variance to Expand the Bargaining Unit[4]	37	13	43	6	2	0	101
Decertification & "Partial Decertification"[5]	7	5	13	1	0	0	26
Collective Agreement Arbitration (CAAB) (ss.86, 87, 104, 105)[6]	57	2	6	0	0	14[7]	79
Other	18	0	9	4	7	3	41
TOTAL	**172**	**22**	**83**	**34**	**11**	**19**	**341**

1 Includes Consent Order issued.
2 Includes complaints regarding strikes, lockouts, picketing, etc.
3 Excludes duty of fair representation (s.12)
4 In reports prior to 2001, the number of certification & expanded bargaining unit applications "Settled / Withdrawn" were included in the "Resolved Issues / Assisted at Hearing" assignment outcome category.
5 Prior to 2003 applications for 'partial decertification' were included under "Other" types of applications.
6 Reporting of assignments under the Collective Agreement Arbitration provisions of the *Labour Relations Code* first appears in the 2003 annual report.
7 Includes 13 assignments closed with matter proceeding to arbitration.

TABLE 10: Requests for Automatic Certification Pursuant to Section 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously Section 8(4)(e) of the Labour Relations Code and the Industrial Relations Act)

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	12	3
2003	13	0
2004	8	1
2005	7	1
2006	8	0
TOTAL	**677**	**38**

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.
Note: Figures for 1993 to 1995 were not included in the Annual Reports for these years.

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